

1 **A-416 Text Amendment**

2 **Applicant: Staff**

3 **Request by Staff to add Section 13: Calculation of Time and to amend Section 44: Extension or**
4 **Enlargement of Non-Conforming Situations, Section 50: Table of Permitted Uses, Section 53.2:**
5 **I-1 Light Industrial, Section 53.3, I-2 Heavy Industrial, and Section 71: Special Use Permits**
6 **Issued by the Board of County Commissioners to address regulations regarding industrial uses**
7 **and Special Use Permit regulations. Additions are in red and deletions are in red with strike-**
8 **throughs.**

9 **Article I: IN GENERAL**

10

11 **Section 13: Calculation of Time**

12 **In computing any period of time prescribed by this section, the day the act, event, or**
13 **submittal after which the designated period of time begins to run is not to be**
14 **included. The last day of the period so computed is to be included, unless that date**
15 **should fall on a Saturday, Sunday, or a legal holiday, in which case the due date shall**
16 **be the next business day following such Saturday, Sunday or legal holiday. The term**
17 **“legal holiday” shall mean any federal, state or local government holiday for which**
18 **financial institutions or post offices are generally closed in the State of North Carolina.**
19 **The term “business day” means any day other than a Saturday, Sunday or legal**
20 **holiday.**

21

22 **Section 23: Definitions**

23 **M**

24

25 **Manufacturing**

26

27 **Artisan Manufacturing-** On-site production of goods by hand manufacturing
28 involving the use of hand tools and small-scale light mechanical equipment.
29 Typical uses include woodworking and cabinet shops, ceramic studios, jewelry
30 manufacturing and similar types of arts and crafts or very small-scale
31 manufacturing uses that have very limited, if any, negative external impacts on
32 surrounding properties, water resources, air quality and/or public health.

33

34 ~~**Limited Manufacturing-** Manufacturing of finished parts or products, primarily~~
35 ~~from previously prepared materials. Typical uses include: printing and related~~
36 ~~support activities; machinery manufacturing; food manufacturing; computer~~
37 ~~and electronic product manufacturing; electrical equipment, appliance,~~
38 ~~component manufacturing/assembly; furniture and related product~~
39 ~~manufacturing/assembly; and other manufacturing and production~~

40 establishments that typically have very limited, if any, negative external impacts
41 on surrounding properties, water resources, air quality and/or public health.

42
43 ~~**General Manufacturing**~~ Manufacturing, bulk storage, and/or handling of
44 finished or unfinished products primarily from extracted, raw, recycled, or
45 secondary materials. Typical uses include textile mills; textile product mills;
46 apparel manufacturing; leather and allied product manufacturing; wood product
47 manufacturing; plastics and rubber products manufacturing; nonmetallic
48 mineral product manufacturing; transportation equipment manufacturing;
49 primary metal manufacturing; and fabricated metal product manufacturing.

50
51 Industrial service firms engaged in the repair or servicing of industrial or
52 commercial machinery, equipment, products, or by-products. Typical uses
53 include: welding shops; machine shops; industrial tool repair; fuel oil
54 distributors; solid fuel yards; and carpet cleaning plants. General manufacturing
55 facilities include those operations that do not have significant negative external
56 impacts on surrounding properties, water resources, air quality and/or public
57 health.

58
59 ~~**Intensive Manufacturing**~~ Manufacturing and processing of products and
60 chemicals including but not limited to: acetylene, lime, gypsum or plaster of
61 Paris, stone, clay, glass, cement, concrete, chlorine, corrosive acid or fertilizer,
62 insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish,
63 petroleum products, coal, plastic and synthetic resins, and radioactive materials.
64 This group also includes smelting, animal slaughtering, paper manufacturing, oil
65 refining, fuel bulk storage facilities, and electricity generating facilities, as well
66 as any manufacturing or processing facility which has a high potential for
67 significant negative external impacts on surrounding properties, water
68 resources, air quality and/or public health.

70 **Section 44: Extension or Enlargement of Non-Conforming Situations**

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72 44-1: Except as specifically provided in this section, it shall be unlawful for any person to
73 engage in any activity that causes an increase in the extent of non-conformity of a non-
74 conforming situation.

75
76 44-1.1: The standards outlined in Sections 53.2 and 53.3 of this ordinance and any requirement
77 for a special use permit shall apply to all new proposals in I-1 and I-2 districts as shown on the
78 Table of Permitted Uses. Any existing industrial uses which did not require a special use permit
79 as of ~~October 2, 2011 the day prior to the date of adoption of this section~~ would be considered a
80 conforming use and shall not require a special use permit in order to continue operations. The
81 term "existing industrial uses" shall mean ~~an industry or other business~~ industries in active
82 operation and open for business on a tax parcel zoned I-1 or I-2 and developed for that
83 particular use as of ~~the day prior to the date of adoption of this section~~ October 2, 2011 .

84
85 **44-1.1.1: Modifications and/or Expansions of Existing Industrial Uses:** For ~~a~~ modifications
86 and/or expansions of ~~an~~ existing industrial uses ~~which was in conformity with the requirements~~

87 | of this ordinance as of October 2, 2011, and where the modification and/or expansion would
88 | change the particular use as indicated on the Table of Permitted Uses, a special use permit will
89 | be required for the modification and/or expansion if the new use is indicated by an "S" on the
90 | Table of Permitted Uses, provided, however, that if one or both of the two exceptions set out in
91 | subsections A and B below apply, then a special use permit shall not be required with respect to
92 | such modification and/or expansion:

93 |
94 | **A. Exception for Modifications and/or Expansions on the Same Parcel:** Modifications
95 | and/or expansions of existing industrial uses shall be allowed without a special use
96 | permit if the use is fully contained on the tax parcel currently developed for and
97 | operating as such use and provided one of the following criteria applies:

- 98 | 1. If the expansion and/or modification is for the same existing industrial
99 | use that was in active operation and open for business as of ~~the day~~
100 | ~~prior to the date of adoption of this section~~ October 2, 2011.
- 101 | 2. If the expansion and/or modification is classified within the Artisan,
102 | Limited or General Manufacturing category and is for a less intensive
103 | industrial use than was in active operation and open for business as of
104 | ~~the day prior to the date of adoption of this section~~ October 2, 2011.
105 | (Ex. An existing Intensive Manufacturing use could transition to a use in
106 | the Artisan, Limited or General Manufacturing category).
- 107 | 3. If the existing industrial use is classified within the General, Limited or
108 | Artisan Manufacturing categories, the use may expand and/or modify to
109 | a different use within that same category.

110 | **B. Exception for Modifications and/or Expansions onto Adjacent or Contiguous**
111 | **Parcels:** Modifications and/or expansions of existing industrial uses shall be allowed
112 | without a special use permit on tax parcels adjacent or contiguous (excluding rights of
113 | way) to the current use, if properly zoned, and held in the same ownership as on the
114 | date of adoption of this section (including successor ownership) as of October 2, 2011
115 | and provided one (1) of the following criteria applies:~~and provided the following:~~

- 116 |
117 | 1. If the expansion and/or modification is for the same existing industrial
118 | use that was in active operation and open for business as of ~~the day~~
119 | ~~prior to the date of adoption of this section~~ October 2, 2011.
- 120 | 2. If the expansion and/or modification is classified within the Artisan,
121 | Limited or General Manufacturing category and is for a less intensive
122 | industrial use than was in active operation and open for business as of
123 | ~~the day prior to the date of adoption of this section~~ October 2, 2011.
124 | ~~(Ex. An existing Intensive Manufacturing use could transition to a use in~~
125 | ~~the Artisan, Limited or General Manufacturing category).~~
- 126 | 3. If the existing industrial use is classified within the General, Limited or
127 | Artisan Manufacturing categories, the use may expand and/or modify to
128 | a different use within that same category.

132 **Section 53.2: I-1 Light Industrial**

133 (10/3/2011)

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135 **53.2-1:** The I-1 zoning district is established to preserve land within the County for light industrial
136 uses and associated operations, including assembly, fabrication, packaging and transport, where
137 operations are conducted primarily indoors and where suitable sites are served by rail, waterway,
138 highway transportation systems as well as readily available utilities. Heavy industrial uses in which
139 raw materials are converted into products for subsequent assembly or fabrication or where uses
140 create an excessive amount of noise, odor, smoke, dust, air borne debris or other objectionable
141 characteristics which might be detrimental to surrounding areas are not appropriate in this district.
142 Within the I-1 district, all operations conducted and all materials used or held in storage shall be
143 contained within enclosed buildings, solid wall, fence or planting of such nature and height as to
144 conceal such operation or materials from view from any roadway or adjacent properties. No I-1
145 district shall be less than five (5) acres in area.

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147 **53.2-2 Deleted (1/5/81)**

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149 **53.2-3 Deleted (1/5/81)**

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151 **53.2-4: Dimensional Requirements:**

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153 (1) Minimum Lot Area-None

154 (2) Minimum Front Yard- 50 feet

155 (3) Minimum side and rear yards for property abutting residential districts shall be
156 calculated in accordance with Section 60.3.

157 (4) Maximum building height:

158 Forty (40) feet except for buildings located within the Urban Transition Area and
159 fronting along a Collector, Minor Arterial, or Principal Arterial as indicated on the
160 Wilmington Metropolitan Planning Organization's most current Roadway Functional
161 Classification Map, may exceed forty (40) feet provided their FAR does not exceed 1.0.
162 (2/7/83)

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164 **53.2-5: Parking:** Parking and loading shall be provided in accordance with the provisions of Article
165 VIII.

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167 **53.2-6: Signs:** Signs shall be in accordance with Article IX.

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169 **53.2-7:** DELETED (3/9/88)

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171 **53.2-8: Existing Industrial Uses:**

172 (10/3/11)

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174 These standards and any requirement for a special use permit shall apply to all new proposals in I-1
175 districts as shown on the Table of Permitted Uses. The term "existing industrial uses" shall mean an
176 industry or other business in active operation and open for business on a tax parcel zoned I-1 and
177 developed for that particular use as of ~~the day prior to the date of adoption of this section~~ October
178 2, 2011 . Any existing industrial uses which did not require a special use permit as of ~~the day prior to~~

179 | ~~the date of adoption of this section~~ October 2, 2011 would be considered a conforming use and shall
180 | not require a special use permit in order to continue operations.

181 |
182 | **53.2-8.1: Modifications and/or Expansions of Existing Industrial Uses:** For ~~a~~ modifications
183 | ~~and/or expansions of an existing industrial uses which was use site conditions were~~ in
184 | conformity with the requirements of this ordinance as ~~of of the day prior to the date of~~
185 | ~~adoption~~ October 2, 2011, and where the modification and/or expansion would change the
186 | particular use as indicated on the Table of Permitted Uses, a special use permit will be required
187 | for the modification and/or expansion if the new use is indicated by an "S" on the Table of
188 | Permitted Use, provided, however, that if one or both of the two exceptions set out in
189 | subsections A and B below apply, then a special use permit shall not be required with respect to
190 | such modification and/or expansion: ~~the following conditions must be met. If these conditions~~
191 | ~~are not met, or if the existing industrial use is classified within the Intensive Manufacturing~~
192 | ~~category, and the modification and/or expansion changes the particular use within that~~
193 | ~~category, a special use permit will be required for the modification and/or expansion.~~

194 |
195 | **A. Exception for Modifications and/or Expansions on the Same Parcel:** Modifications
196 | and/or expansions of existing industrial uses shall be allowed without a special use
197 | permit if fully contained on the tax parcel currently developed for and operating as
198 | such use and provided one (1) of the following criteria applies: ~~the following:~~

- 199 |
200 | 1. If the expansion and/or modification is for the same existing industrial
201 | use that was in active operation and open for business as of ~~the day~~
202 | ~~prior to the date of adoption of this section~~ October 2, 2011.
- 203 | 2. If the expansion and/or modification is classified within the Artisan,
204 | Limited or General Manufacturing category and and is for a less
205 | intensive industrial use than was in active operation and open for
206 | business as of ~~the day prior to the date of adoption of this~~
207 | ~~section~~ October 2, 2011. ~~(Ex. An existing Intensive Manufacturing use~~
208 | ~~could transition to a use in the Artisan, Limited or General~~
209 | ~~Manufacturing category).~~
- 210 | 3. If the existing industrial use is classified within the General, Limited or
211 | Artisan Manufacturing categories, the use may expand and/or modify to
212 | a different use within that same category.

213 | **B. Exception for Modifications and/or Expansions onto Adjacent or Contiguous**
214 | **Parcels:** Modifications and/or expansions of existing industrial uses shall be allowed
215 | without a special use permit on tax parcels adjacent or contiguous (excluding rights of
216 | way) to the current use, if properly zoned, and held in the same ownership (including
217 | successor ownership) as on ~~the day prior to the date of adoption of this section~~ October
218 | 2, 2011 (including successor ownership) and provided one (1) of the following criteria
219 | applies: ~~the following:~~

- 220 |
221 | 1. If the expansion and/or modification is for the same existing industrial
222 | use that was in active operation and open for business as of ~~the day~~
223 | ~~prior to the date of adoption of this section~~ October 2, 2011.
- 224 | 2. If the expansion and/or modification is classified within the Artisan,
225 | Limited or General Manufacturing category and is for a less intensive
226 | industrial use than was operating as of ~~the day prior to the date of~~

227 | ~~adoption of this section October 2, 2011 . (Ex. An existing Intensive~~
228 | ~~Manufacturing use could transition to a use in the Artisan, Limited or~~
229 | ~~General Manufacturing category).~~

- 230 | 3. If the existing industrial use is classified within the General, Limited or
231 | Artisan Manufacturing categories, the use may expand and/or modify to
232 | a different use within that same category.
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235 | **Section 53.3: I-2 Heavy Industrial**

236 | (10/3/11)

237 |
238 | **53.3-1:** The I-2 zoning district is established to set aside areas of the County for a full range of
239 | manufacturing, fabrication, assembly, warehousing, and distribution uses associated with heavy
240 | industrial land uses where heavy industry can find suitable sites served by rail, waterway and
241 | highway transportation. The district is also established to subsequently protect nonindustrial
242 | districts situated outside the district and minimize environmental impacts caused by the uses within
243 | the district. Outdoor operations and storage are appropriate for this district provided that the
244 | district standards are met. Certain uses within the I-2 district shall require a special use permit as
245 | specified in the Table of Permitted Uses. No I-2 District shall be less than five (5) acres in area.
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247 | **53.3-2: DELETED (1/5/81)**

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249 | **53.3-3: DELETED (1/5/81)**

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251 | **53.3-4: Dimensional Requirements:**

252 |
253 | (1) Minimum lot area-None

254 |
255 | (2) Minimum front yard building setback-50 feet

256 |
257 | (3) Minimum side and rear yard building setbacks for property abutting residential shall be
258 | calculated in accordance with Section 60.3.

259 |
260 | (4) Buffers must be established between I-2 and adjacent, non-industrial uses, in
261 | accordance with Section 62.1-4 of this ordinance.
262 |

263 | ~~**53.3-4.1: Review of external effects.** All uses in the I-2 zoning district must operate in~~
264 | ~~compliance with current standards for sound, vibration, heat discharge, glare, odor, air~~
265 | ~~quality and water quality, as applicable under federal, state, and local regulations. For uses~~
266 | ~~that require a Special Use Permit, a non-binding narrative must accompany the application~~
267 | ~~that shall include a disclosure of the projected external impacts of the project, including~~
268 | ~~information about anticipated federal and/or state permits that will be required. Section 71~~
269 | ~~further describes the special use permit approval process. The County may require~~

~~additional information deemed reasonable to assess the impacts and effects of a project on a community including plans, specifications, and other information deemed necessary to determine compliance with the review criteria. Federal, State and /or local environmental agencies may be consulted to advise the Planning and Inspections Department on applications for Special Use Permits.~~

53.3-5: Parking – Parking and loading shall be provided in accordance with the provisions of Article VIII.

53.3-6: Signs – Signs shall be in accordance with Article IX.

53.3-7: DELETED (3/9/88)

53.3-8: Existing Industrial Uses:
(10/3/11)

These standards and any requirement for a special use permit shall apply to all new proposals in I-2 districts as shown on the Table of Permitted Uses. The term “existing industrial uses” shall mean an industry or other business in active operation and open for business on a tax parcel zoned I-2 and developed for that particular use as of ~~the day prior to the date of adoption of this section~~October 2, 2011. Any existing industrial uses which did not require a special use permit as of ~~the day prior to the date of adoption of this section~~October 2, 2011 would be considered a conforming use and shall not require a special use permit in order to continue operations.

53.3-8.1: Modifications and/or Expansions of Existing Industrial Uses: For modifications and/or expansions of existing industrial uses ~~whose site conditions werewhich was~~ in conformity with the requirements of this ordinance as of ~~the day prior to the date of adoption~~October 2, 2011, ~~and where the modification and/or expansion would change the particular use as indicated on the Table of Permitted Uses, a special use permit will be required for the modification and/or expansion if the new use is indicated by an “S” on the Table of Permitted Uses, provided, however, that if one or both of the two exceptions set out in subsections A and B below apply, then a special use permit shall not be required with respect to such modification and/or expansion:~~~~the following conditions must be met. If these conditions are not met, or if the existing industrial use is classified within the Intensive Manufacturing category, and the modification and/or expansion changes the particular use within that category, a special use permit will be required for the modification and/or expansion.~~

A. Exception for Modifications and/or Expansions on the Same Parcel: Modifications and/or expansions of existing industrial uses shall be allowed without a special use permit if fully contained on the tax parcel currently developed for and operating as such use and provided one (1) of the following criteria applies:~~the following:~~

- 312 1. If the expansion and/or modification is for the same existing industrial
313 use that was in active operation and open for business as of ~~the day~~
314 ~~prior to the date of adoption of this section~~October 2, 2011 .
315 2. If the expansion and/or modification is classified within the Artisan,
316 Limited or General Manufacturing category and is for a less intensive
317 industrial use than was in active operation and open for business as of
318 ~~the day prior to the date of adoption of this section~~October 2, 2011 .
319 ~~(Ex. An existing Intensive Manufacturing use could transition to a use in~~
320 ~~the Artisan, Limited or General Manufacturing category).~~
321 3. If the existing industrial use is classified within the General, Limited or
322 Artisan Manufacturing categories, the use may expand and/or modify to
323 a different use within that same category.

324 B. Exception for Modifications and/or Expansions onto Adjacent or Contiguous Parcels:
325 Modifications and/or expansions of existing industrial uses shall be allowed without a special
326 use permit on tax parcels adjacent or contiguous (excluding rights of way) to the current use, if
327 properly zoned, and held in the same ownership as on ~~the day prior to the date of adoption of~~
328 ~~this section~~October 2, 2011 (including successor ownership) and provided one (1) of the
329 following criteria applies: the following:

- 330
331 1. If the expansion and/or modification is for the same existing industrial
332 use that was in active operation and open for business as of ~~the day~~
333 ~~prior to the date of adoption of this section~~October 2, 2011 .
334 2. If the expansion and/or modification is classified within the Artisan,
335 Limited or General Manufacturing category and is for a less intensive
336 industrial use than was in active operation and open for business as of
337 ~~the day prior to the date of adoption of this section~~October 2, 2011 .
338 (Ex. An existing Intensive Manufacturing use could transition to a use in
339 the Artisan, Limited or General Manufacturing category).

340 If the existing industrial use is classified within the General, Limited or Artisan Manufacturing categories,
341 the use may expand and/or modify to a different use within that same category.

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346 **ARTICLE VII: PROVISIONS FOR USES ALLOWED AS SPECIAL USES**

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348 **Section 70: Objectives and Purposes of Special Use Permits**

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350 70-1: Special Use Permits add flexibility to the Zoning Ordinance. Subject to high standards of
351 planning and design, certain property uses may be allowed in the several districts where
352 these uses would not otherwise be acceptable. By means of controls exercised through
353 the Special Use Permit procedures, property uses which would otherwise be undesirable
354 in certain districts can be developed to minimize any bad effects they might have on
355 surrounding properties.

356

357 **Section 71: Special Use Permits Issued by the Board of County Commissioners**

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359 71-1: **General Requirements**

360

361 (1) Special Use Permits may be issued by the Board of County Commissioners for
362 the establishment of uses listed as special uses in Article V after a public hearing
363 and after Planning Board review and recommendation. The Planning Board may
364 recommend conditions which assure that the proposed use will be harmonious
365 with the area and will meet the intent of this ordinance. Single-family dwellings,
366 including mobile homes shall not require Planning Board review prior to County
367 Commissioner action. (1/2/90)

368

369 (2) In order to assist petitioners through the process for obtaining a Special Use
370 Permit, petitioners are encouraged to request a pre-application conference
371 prior to application submittal. A public meeting in accordance with Section
372 111-2.1 is strongly recommended to help inform community members of the
373 proposal and to find solutions to issues that may arise.

374

375 Applicants may include the owner or owners of the subject property, ~~or~~ their
376 duly authorized agent, or an applicant that has an option to purchase or lease
377 the property ~~of the property~~ included in the petition for a Special Use Permit
378 that is contingent on approval of the special use permit. Applicants shall submit
379 an application to the New Hanover County Planning and Inspections
380 Department at least ~~forty~~forty-five (45) days prior to the meeting of the
381 Planning Board at which the applicant seeks to have the application considered
382 (the "Requested Meeting"). ~~twenty (20) working days prior to the first regular~~
383 ~~monthly meeting of the Planning Board. (12/07)~~ Within five (5) days of the
384 application deadline~~The application should be submitted no later than 1:00 PM~~
385 ~~on the deadline day, and~~ county staff shall ~~endeavor to~~ provide to the applicant
386 either confirmation of completeness of the application, or information
387 regarding non-completeness of the ~~application,~~application, prior to the end of
388 that same business day. Any additional information requested by staff that is
389 necessary to complete the application, shall be due by the close of business
390 forty-five (45) days prior to the Requested Meeting. So long as an application
391 has been deemed complete by forty-five (45) days prior to the Requested
392 Meeting,~~Assuming the complete application has been received by 5:00 PM on~~

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~~the deadline day~~, the Planning Board shall consider the application at the Requested Meeting unless the applicant requests a continuance in accordance with Section 111-3 of the Ordinance.

An application fee established by the County Commissioners shall be paid to the County of New Hanover, North Carolina to cover necessary administrative costs and advertising expenses. (8/22/82) Such application shall include all of the requirements pertaining to it in this Article. (5/2/83) Notification of the request shall be provided to citizens. ~~All adjoining property owners shall be notified of the request~~ as outlined in Section ~~11210-1(4)~~ of this ordinance. (2/6/89) . If Federal, State and/or local permits are submitted as part of the application, it is assumed that these permits are valid for the subject matter for which they have been granted to the petitioner and they shall be incorporated into the review by county staff.

~~(3)~~
County staff planning board and/or board of county commissioners may request additional information it believes could be relevant to a determination of impacts, environmental and otherwise, to surrounding properties and/or the area in which the subject property is located. Such additional information may be in the form of tests, studies, reports, etc. evaluating factors such as sound, vibration, heat discharge, glare, odor, traffic, air quality, water quality, or other factors potentially relevant to the four requirements listed in Section 71-1(4). ~~Once the petitioner has obtained a permit from a Federal, state and/or local authority, it is presumed for county purposes that the petitioner has the requisite approval for the subject matter covered by the permit. In order to challenge this approval, the challenging party will need to present clear and convincing evidence to the contrary as determined by the planning board and/or board of commissioners.~~ In the event that this information is requested, by staff, then it will be requested within fifteen (15) days of the date that the application is deemed completed deadline. ~~Irrespective of whether such information is requested by county staff or whether the applicant decides to provide some or all of the requested information, the Planning Board shall consider the application at the requested meeting, unless the petitioner desires a continuance, in which case a request for delay of consideration may be made by the petitioner in accordance with Section 111-3 of the Ordinance.~~

~~(4)~~(3) Application Submittal: Applications may be found on the New Hanover County Planning website or at the New Hanover County Planning office. In addition to the application, the following information and materials are required for submission:

- (A) Narrative of the proposed use
- (B) Traffic Impact Worksheet
- (C) Traffic Impact Analysis (if applicable)

- 440 (D) Authority for Appointment of Agent Form (if applicable)
- 441 ~~(E)~~ Letter of owner consent where applicant has option to purchase
- 442 property.
- 443 ~~(E)~~(F) Written report of public meeting (if applicable)
- 444 ~~(F)~~(G) Fee is accordance with the County's adopted fee schedule
- 445 ~~(G)~~(H) Site Plan: The applicant shall provide nine (9) 24x36 copies of the site
- 446 plan for the Planning Board meeting and one digital version. The
- 447 applicant will also be asked for an additional eight (8) copies of the site
- 448 plan if the proposal moves forward to the County Commissioners. Each
- 449 site plan shall contain at least the following information:
- 450 1. Tract boundaries and total area, location of adjoining parcels
- 451 and roads
- 452 2. Proposed use of land, structures and other improvements. For
- 453 residential uses, this shall include number, height and type of
- 454 units and area to be occupied by each structure and/or
- 455 subdivided boundaries. For non-residential structures, this shall
- 456 include approximate square footage and height of each
- 457 structure, an outline of the area it will occupy and the specific
- 458 purpose for which it will be used.
- 459 3. Development schedule including proposed phasing.
- 460 4. Traffic and Parking Plan to include a statement of impact
- 461 concerning local traffic near the tract, proposed right-of-way
- 462 dedication, plans for access to and from the tract, location,
- 463 width and right-of-way for internal streets and location,
- 464 arrangement and access provision for parking areas.
- 465 5. All existing and proposed easements, reservations, required
- 466 setbacks, rights-of-way, buffering and signage
- 467 6. The one hundred (100) year floodplain line, if applicable
- 468 7. Location and sizing of trees required to be protected under
- 469 Section 62 of the Zoning Ordinance
- 470 8. Any additional conditions and requirements, which represent
- 471 greater restrictions on development and use of the tract than
- 472 the corresponding General Use District regulations or other
- 473 limitations on land which may be regulated by State law or Local
- 474 Ordinance.
- 475 9. Any other information that will facilitate review of the proposed
- 476 change (Ref. Article VII, as applicable)
- 477 ~~10.~~
- 478 ~~(5)~~(4) Upon receiving the recommendations of the Planning Board and holding a
- 479 public hearing, the Board of County Commissioners may grant or deny the
- 480 Special Use Permit requested. The Special Use Permit, if granted shall include
- 481 such approved plans as may be required. In granting the Special Use Permit the
- 482 Commissioners shall find: (1/2/90)
- 483
- 484 (A) that the use will not materially endanger the public health or safety if
- 485 located where proposed and approved;
- 486 (B) that the use meets all required conditions and specifications;

- 487 (C) that the use will not substantially injure the value of adjoining or
488 abutting property, or that the use is a public necessity; and
489 (D) that the location and character of the use if developed according to the
490 plan as submitted and approved will be in harmony with the area in
491 which it is to be located and in general conformity with the plan of
492 development for New Hanover County. (5/2/83)

493 ~~(E)~~
494 ~~(F)~~ With any special use permit, the applicant has the burden of presenting
495 sufficient evidence that an application meets the standards of the Ordinance.
496 Once an applicant makes the requisite showing that the standards have been
497 met, the burden shifts to any opposition to the permit to present countervailing
498 substantial, competent, and material evidence that the standards have not been
499 met. Where there is substantial evidence on both sides, the Board of
500 Commissioners will weigh the evidence to make its determination.
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503

504 ~~(6)~~(5) In granting the permit the Board of County Commissioners may recommend and
505 designate such conditions in addition and in connection therewith, as will in its
506 opinion, assure that the use in its proposed location will be harmonious with the
507 area in which it is proposed to be located and with the spirit of this Ordinance.
508 All such additional conditions shall be entered in the minutes of the meeting at
509 which the permit is granted and also on the certificate of the Special Use Permit
510 or on the plans submitted therewith. All specific conditions shall run with the
511 land and shall be binding on the original applicants for the Special Use Permit,
512 their heirs, successors and assigns. A Special Use Permit, issued by the Board of
513 County Commissioners shall become null and void if construction or occupancy
514 of the proposed use as specified on the Special Use Permit is not commenced
515 within twenty-four (24) months of the date of issuance. If an extension is
516 desired, a request must be submitted in writing to the New Hanover County
517 Planning and Inspections Department prior to the expiration. Extensions may
518 be granted in accordance with section 112-6 of the Ordinance.(12/17/2012)
519 A Board of County Commissioners decision on an extension may be appealed in
520 conformity with the requirements of Section 71-1(6) of this Ordinance. (5/2/83),
521 (10/7/91)
522

523 ~~(7)~~(6) If the Board of County Commissioners denies the Permit, the Board shall enter
524 the reasons for its action in the minutes of the meeting at which the action is
525 taken. (5/2/83)
526

527 ~~(8)~~(7) Every decision by the Board of Commissioners issuing or denying a special use
528 permit shall be subject to review by the Superior Court by proceedings in the
529 nature of certiorari. Any petition for review by the Superior Court shall be filed
530 with the Clerk of Superior Court within thirty (30) days after the decision of the
531 Board is filed in the Office of the Clerk to the Board, or after a written copy
532 thereof is delivered to every aggrieved party who has filed a written request for

533 such copy with the Clerk or Chairman of the Board at the time of the hearing of
534 the case, whichever is later. (5/3/82)

535
536 ~~(9)~~(8) In addition to the specific conditions imposed by the regulations of this
537 Ordinance and whatever additional conditions the Board deems reasonable and
538 appropriate, special uses shall comply with the height, yard, area and parking
539 regulations for the use district in which they are permitted unless otherwise
540 specified. If additional yard area is required for a special use, such additional
541 area may be used for off-street parking. A ~~transportation information~~
542 ~~sheet~~Traffic Information Worksheet is required to be completed. Ffor any
543 development that will generate more than 100 trips during the peak hour; a
544 ~~traffic impact study~~Traffic Impact Analysis may also be required. The study shall
545 be prepared in accordance with ~~Standards-standards~~ and ~~Guidelines-guidelines~~
546 approved by the County and shall be submitted at least twenty-five (25) days
547 ~~four weeks~~ prior to the first scheduled meeting of the project's review. (5/02)

548
549 ~~(10)~~(9) In the event of failure to comply with the plans approved by the Board of
550 County Commissioners or with any other conditions imposed upon the Special
551 Use Permit, the Permit shall thereupon immediately become void and of no
552 effect. No building permits for further construction or certificates of occupancy
553 under this Special Use Permit shall be issued, and all completed structures shall
554 be regarded as non-conforming uses subject to the provisions of Article IV of
555 this Ordinance provided, however, that the Board of County Commissioners
556 shall not be prevented from thereafter rezoning said property for its most
557 appropriate use.

558
559 ~~(11)~~(10) The original applicant(s), their successors or their assignee may make
560 minor changes in the location and/or size of structures provided the necessity
561 for these changes is clearly demonstrated. Minor changes shall be reviewed by
562 the Planning and Inspections Department and upon favorable recommendation
563 by the Planning and Inspections Director may be approved by the Zoning
564 Administrator. Such approval shall not be granted should the proposed revisions
565 cause or contribute to:

- 566
567 (A) A change in the character of the development.
568 (B) A change of design for, or an increase in the hazards to pedestrian and
569 vehicle traffic circulation, or
570 (C) A modification in the originally approved setbacks from roads and/or
571 property lines exceeding ten percent. (5/4/81) (9/3/2013)

572
573 ~~(12)~~(11) Resubmittals: An application for a special use which has been
574 previously denied may be resubmitted only if there has been a change
575 in circumstances as determined by the Planning and Inspections
576 Director or the director's designee.

577
578 Evidence presented in support of the new application shall initially be limited to
579 what is necessary to enable the Planning and Inspections Director to determine

580 whether there has been a substantial change in the facts, evidence, or
581 conditions of the case and shall include:

- 582
- 583 (A) Circumstances affecting the property that is the subject of the
584 application which have substantially changed since the denial; or
 - 585 (B) New information available since the denial that could not with
586 reasonable diligence have been presented at a previous hearing.
- 587

588 If the Planning and Inspections Director deems the evidence substantially
589 changed, the proposal may be resubmitted as a new application.

590

591 Appeal of the Planning and Inspections Director's decision may be made
592 to the Board of County Commissioners. (9/07)

593