

Synopsis of Revised Changes to DCA's Rules for Developments of Regional Impact

Draft rules at <http://www.dca.ga.gov/development/PlanningQualityGrowth/programs/regionalimpact.as>



The Georgia Planning Act, passed by the General Assembly in 1989, charged the Georgia Department of Community Affairs with administering the State's comprehensive planning program.¹ That legislation assigned the agency the responsibility of creating and maintaining administrative rules to govern the day-to-day conduct of the programs created in the Act.

In late 2010, recognizing the recent changes in business and development climate affecting communities across the state, the Department began exploring the potential need to revise its rules. At the encouragement of the Governor and the General Assembly, the Board of Community Affairs established a task force to research and recommend specific revisions to Department's rules, including those for Developments of Regional Impact (DRIs).²

On April 4, 2012, the Department adopted revised DRI rules based on recommendations from the task force, which went into effect on July 1, 2012. These rules included the flexibility for Regional Commissions (RCs) to "establish alternative DRI requirements, specifically tailored to the needs of their region...These alternatives may include 1) alternative DRI thresholds; 2) alternative set of reviewable development types qualifying for DRI review; 3) amendments to the DRI Communication procedures."

Starting in January of 2012, ARC began discussing potential alternative DRI procedures and thresholds within the 10-county region with local governments in the 18-county region through our Land Use Coordinating Committee (LUCC), Environment and Land Use Committee (ELUC), and finally the ARC Board.

LUCC is comprised of the planning director from one city in each county as well as the planning director from each county. Additionally, all city and county planning directors in the 18-county region are included on the LUCC email list, are notified of LUCC meeting date, time, location and agenda, and are invited to attend and participate. LUCC members and others were invited to participate on a DRI subcommittee to discuss potential alternative DRI procedures and thresholds. After holding several meetings, draft alternative DRI procedures and thresholds were developed and presented to the full LUCC committee. The committee and others on the distribution list were notified of the draft alternative DRI procedures and thresholds and asked to attend future LUCC meetings to discuss as well as contact ARC staff to discuss the draft changes. In June 2012 LUCC unanimously approved the draft alternative DRI procedures and thresholds.

ELUC, is a subcommittee of the ARC Board. It is comprised of local elected officials and citizen members from the 10-county region. ELUC is currently divided into topical teams, including the Land Use team which first discussed the draft alternative DRI procedures and thresholds, before it was discussed by the full committee. In August 2012, ELUC unanimously approved the draft alternative DRI procedures and thresholds.

The ARC Board approved the draft alternative DRI procedures and thresholds and voted to transmit these alternatives to the Department for review and approval by the DCA Board.

What follows is a brief overview of the alternatives the ARC Board has recommended for the "DRI Rules" with regard to DRI review in the Atlanta region as well as a summary of the proposed ARC Alternative DRI process and threshold table.

¹ O.C.G.A. 50-8-2, et seq.

² Rules of the Georgia Department of Community Affairs Chapter 110-12-3

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PROPOSED REVISIONS	PAGE
<p>Chapter 110-12-3-.02 The rules currently at 110-12-3-.02, "Request for Action", are to be amended so that the local government contacts ARC before submitting the DRI Information Form. The rules will state: "Whenever a local government is considering action (see 110-12-3-.03(1) on a development project that may meet or exceed the DRI thresholds for that development type, the local government must contact the Regional Commission Review Coordinator to schedule a Pre-Review Meeting. The local government may do so via email, fax, or written letter."</p>	2
<p>Chapter 110-12-3-.02 A new section will be added at 110-12-3-.02, titled "Pre-review Meeting" to replace a portion of the current section "DRI Notification." ARC will convene a pre-review meeting with the host local government, the applicant, neighboring or affected jurisdictions, GDOT, GRTA, and MARTA if applicable. The rules in this section will state: "Provided the pre-review meeting does not result in an expedited review, the applicant must provide the host local government with all information necessary to complete the DCA DRI Information Form. When completed, the host local government must electronically submit the DRI Information Form to the Regional Commission, GRTA (if the local government is located within GRTA's jurisdiction), and the Department using the DCA DRI website. The applicant must also gather all additional information identified at the pre-review meeting and submit this information to the Regional Commission and to GRTA (if the local government is located within GRTA's jurisdiction) in order to ensure that the impacts of the proposed project can be identified. The applicant has 90 days from the date of the pre-review meeting to submit all additional information or the DRI will be considered withdrawn by the Regional Commission."</p>	3
<p>Chapter 110-12-3-.02 A portion of the rules currently at 110-12-3-.02, "DRI Notification", will be moved to a new section "Submittal of DRI Information Form and Additional Information" and be amended. The rules under the new "Submittal of DRI Information Form and Additional Information" section will state: "Provided the pre-review meeting does not result in an expedited review, the applicant must provide the host local government with all information necessary to complete the DCA DRI Information Form. When completed, the host local government must electronically submit the DRI Information Form to the Regional Commission, GRTA (if the local government is located within GRTA's jurisdiction), and the Department using the DCA DRI website. The applicant must also gather all additional information identified at the pre-review meeting and submit this information to the Regional Commission and to GRTA (if the local government is located within GRTA's jurisdiction) in order to ensure that the impacts of the proposed project can be identified. The applicant has 90 days from the date of the pre-review meeting to submit all additional information or the DRI will be considered withdrawn by the Regional Commission."</p>	3

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<p>Chapter 110-12-3-.02</p> <p>The rules currently at 110-12-3-.04, "Notice to Affected Parties and Comment Period" will be amended. This section will be changed so that affected parties will be notified of the DRI review and forwarded a DRI information packet within 5 days of ARC receiving all additional information requested at the pre-review meeting. This section will state:</p> <p>"Within 5 days of issuing the DRI determination, receiving all additional requested information, the Regional Commission will provide a DRI information packet for review and comment to all affected parties. This packet shall include a project summary, a copy of the DRI Information Form, and any additional information the Regional Commission may have obtained regarding the project. The DRI information packet will also include a notice stating, at a minimum, the following:</p> <ul style="list-style-type: none"> • The beginning and end dates of a 15-day period during which the Regional Commission will accept comments for inclusion in the DRI report to be delivered to the host jurisdiction; • The manner in which affected parties should submit comments; and, • A list of all of the jurisdictions and affected parties receiving the notice." 	3
<p>Chapter 110-12-3-.02</p> <p>The rules currently at 110-12-3-.02, "DRI Report", are amended to clarify the availability of extension requests and the effect of that request on the review timeline by including a reference to extension requests. This section will state:</p> <p>"Within 5 days of the conclusion of the 15-day comment period, unless an extension is granted, the Regional Commission must assemble a DRI report containing the following components. The materials presented in the DRI report are purely advisory and under no circumstances should be considered as binding or infringing upon the host jurisdiction's right to determine for itself the appropriateness of development within its boundaries."</p>	3
<p>Chapter 110-12-3-.02</p> <p>The rules currently at 110-12-3-.02, "Negative Finding" will be amended to so that a negative finding is issued no more than 20 days after the Notice to Affected Parties.</p>	4
<p>Chapter 110-12-3-.02</p> <p>The rules currently at 110-12-3-.02, "Positive Finding" will be amended to so that a positive finding is issued no more than 20 days after the Notice to Affected Parties.</p>	4
<p>Chapter 110-12-3-.02</p> <p>The rules currently at 110-12-3-.02, "Optional Activities" will be amended to include an additional section after "Evaluation and Recommendations" titled "Expedited review." This section establishes three criteria under which a DRI review may be expedited. These criteria relate to ARC's Livable Centers Initiative program, transit oriented development and limited trip generation by the proposed development. This section will state:</p> <p>"(b) Expedited Review. The Regional Commission may choose to complete the DRI review process early under the following circumstances. However, the Regional Commission must not issue its finding before the Notice to Affected Parties and</p>	5

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<p>Comment Period.</p> <ol style="list-style-type: none"> 1. Livable Centers Initiative (LCI). A development MAY be eligible for expedited review if it meets at least one of the following: <ul style="list-style-type: none"> • The development is located within an LCI community and the project is “consistent” with the LCI plan; and • LCI community in “good standing;” and • Local government has adopted LCI and incorporated into comprehensive plan; and • ARC and local government staff agree on consistency; or 2. Transit Oriented Development. A development MAY be eligible for expedited review if it is located within ¼ mile of an existing rail transit station or stop, and: <ul style="list-style-type: none"> • Consistent with local government TOD zoning; and, • Consistent with Regional Plan, UGPM, Regional Development Guide, local TOD guidelines or MARTA TOD Guidelines; and, • Parking is limited to no more than minimum required by local government; or, 3. Limited Trip Generation. A development MAY be eligible for expedited review if the land uses within the proposed DRI are such that no more than one thousand (1,000) gross daily trips will be generated by the DRI.” 	
<p>Chapter 110-12-3-.05</p> <p>The threshold table will be replaced by the attached DRI threshold table. However, the thresholds within the current threshold table are referenced within the replacement table.</p> <p>The DRI thresholds will be tiered based on the ARC Regional Plan and Unified Growth Policy Map (UGPM). Additionally, Some uses will not be subject to review, unless within 1 mile of applicable public facility. All developments above the DCA DRI thresholds will be forward to affected parties under the “Notification Only.”</p>	9
<p>Chapter 110-12-3-.05</p> <p>The rules currently at 110-12-3-.05, “Redevelopment” will be amended to allow consideration of how the replacement of existing structures with new structures of the same use and same overall size affect a DRI review determination. The rules will state: “Proposed redevelopments that meet or exceed a DRI threshold must be considered a new DRI, even if the previous development on the site was processed as a DRI. The replacement of structures with new structures housing the same use and basic configuration may be considered when determining if a redevelopment has met or exceeded a DRI threshold.”</p>	11
<p>Chapter 110-12-3-.05</p> <p>The rules currently at 110-12-3-.05 will be amended to include a new section titled “(e) Notification Only and Critical Regional Issues.” Language is being added to require the RC to notify the host local government and affected parties that a development has been submitted which meets or exceeds the DCA DRI thresholds, but does not meet or exceed the ARC tiered thresholds and therefor does not warrant DRI review. The RC must also forward relevant project information and comments to the host local government and affected parties.</p>	11

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<p>Additional language is added to allow the Executive Director of the RC the discretion to determine that DRIs which cross the DCA DRI thresholds, but do not cross the ARC tiered thresholds warrants DRI review if critical regional issues are identified.</p> <p>Likewise, for developments that meet or exceed the tiered ARC thresholds the Executive Director may determine that DRI review is not warranted if neighboring jurisdictions, other affected parties, or ARC do not identify critical regional issues relevant to the development.</p> <p>Critical regional issues are identified as, but not limited to: 1) The proposed development is located adjacent to or within 1 mile of the limits of a neighboring jurisdiction; or 2) Major transportation infrastructure will be needed to accommodate the new development (interchange improvements, bridge replacement, road widening of 2 or more lanes, etc.); or 3) The proposed development is located within 1 mile of a public facility (airport, school, reservoir, river, etc.).</p>	
<p>CHAPTER 110-12-3-.06</p> <p>The rules currently at 110-12-3-.06, the definition of "Waste Handling Facilities" will be amended to clarify what qualifies under this development type. The rules will state: "Waste Handling Facilities means structures or systems designed for the collection, processing or disposal of municipal solid waste, construction and demolition debris, or hazardous waste. This does not include junk yards, scrap metal yards, or recycling facilities for non-municipal solid waste materials."</p>	14

ARC Alternative DRI Procedures and Guidance Summary

DRI Review Process Summary

1. When a local government becomes aware of a development that may meet or exceed a DRI threshold, basic project information and a request for a pre-review meeting should be submitted to ARC.
 - a. The pre-review meeting should be held prior to DCA DRI Information Form submittal. The form requires information that could be unnecessary if DRI review is not warranted.
 - b. If the DCA DRI Information Form is submitted before the Pre-review meeting is held, the DRI process will not proceed until the pre-review meeting has been scheduled and held.
 - c. If enough information is available to make a determination that no DRI review is needed, ARC staff may do so without scheduling a pre-review meeting and will notify potentially affected parties of this decision.
2. ARC staff will schedule and hold pre-review meetings within 10 days of meeting request.
 - a. Pre-review meetings will be held on Mondays.
 - b. The pre-review meeting provides an opportunity for the applicant, local governments, GDOT, MARTA, GRTA, other agencies, and other affected parties to meet with ARC staff, discuss the project, identify potential issues, and outline the DRI review process.

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- c. The applicant should bring site plan and basic project information to the pre-review meeting.
 - d. Any additional information needed for the review will be identified during the pre-review meeting.
3. Within 5 days of the pre-review meeting ARC staff will make a DRI determination and determine if the project meets the DRI expedited review criteria. The DCA DRI Information Form may then be completed.
 4. Within 90 days of the DRI determination, all requested information must be submitted or the DRI may be withdrawn.
 5. Within 5 days of submittal of the DCA Information Form and (additional requested information if applicable), ARC staff will issue preliminary report with a project summary; copy of the Information Form, ARC preliminary comments; a request for comments from affected parties; and, if applicable, include information on expedited review. This issuance of this report starts review and comment period.
 6. The standard review and comment period will last a minimum of 15 days to allow for the *DCA required comment period*, but last no longer than 20 days, unless review extensions are requested.
 - a. ARC staff will use a checklist to assist in determining a positive or negative finding. This checklist will be developed with other state agencies to ensure relevant questions are included.
 - b. If the DRI is expedited, the review will last a minimum of 7 days, but no longer than 15 days, unless issues or conflicts are identified that cannot be resolved at end of 15-day comment period.
 - c. ARC staff may convene affected parties during the review and comment period in order to resolve any issues identified regarding the DRI and its impacts.
 - d. ARC Environment and Land Use Committee (ELUC) and appropriate board members will be notified once a DRI review is opened.
 - e. When conflicts or issues are identified that could result in a negative finding, the ELUC Chairman and ELUC Land Use Team (or other subset) will discuss the DRI and if necessary, take the issue before the full ELUC.
 7. Within 20 days of the preliminary reports being issued, and assuming that no extensions are requested, ARC will issue a final report.
 - a. The final report will include ARC finding and recommendations, relevant project information, and comments from affected parties.
 - b. The final report will be emailed to the host local jurisdiction and all affected parties.
 - c. The final report will also be posted to the ARC website and the DCA sharepoint website.
 - d. Positive finding can be issued by ARC Executive Director.
 - e. Negative findings can only be issued by the ARC Board or ELUC if the review and meeting schedules do not allow time for the full board to take up the matter.

Review Determination Guidance

- All development proposals that cross the DCA DRI thresholds must be submitted to ARC, so that a DRI review determination can be made, and in the instances when DRI review is not warranted, affected jurisdictions and organizations can be notified of the development proposal.

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- ARC staff will make a DRI review determination based on ARC alternative DRI thresholds and other plans and policies
- The executive director of ARC may also determine that a development proposal that meets or exceeds the DCA DRI thresholds, but does not meet or exceed ARC alternative DRIs, warrants regional review. This determination will be made within 5 days of the pre-review meeting. Factors that may lead to a DRI review in this instance include:
 - The proposed development is located adjacent to or within 1 mile of the limits of a neighboring jurisdiction; or,
 - Major transportation infrastructure will be needed to accommodate new development (interchange improvements, bridge replacement, road widening of 2 or more lanes, etc.), or;
 - The proposed development is located within 1 mile of a public facility (airport, school, reservoir, river, etc.)
- The executive director of ARC may determine that a development proposal that crosses a DRI threshold does not require DRI review if:
 - No or minimal additional infrastructure will be needed to accommodate the new development (interchange improvements, bridge replacement, road widening of 2 or more lanes, etc.), and;
 - Neighboring jurisdictions, affected agencies, and ARC do not identify a critical regional issue or impact
 - If a development proposal that crosses a DRI threshold is determined not to require DRI review, ARC staff will notify all potentially affected parties of the determination and include relevant project information.

Expedited Review Criteria Guidance

- Expedited review will last no more than 7 days
- The applicant will not have to provide additional information, beyond what was requested for the pre-review meeting
- A development MAY be eligible for expedited review if it meets at least one of the following:
 - The development is located within an LCI community and the project is “consistent” with the LCI plan, and;
 - LCI community in “good standing,”
 - Local government has adopted LCI and incorporated into comprehensive plan,
 - ARC and local government staff agree on consistency.
 - The DRI is located within a quarter-mile of transit station, and;
 - Consistent with local government TOD zoning,
 - Consistent with Regional Plan, UGPM, Regional Development Guide, and MARTA TOD Guidelines,
 - Parking is limited to no more than minimum required by local government.
 - Trip generation of less than 1000 daily trips

DRI Submittal Guidance

- When requesting a pre-review meeting with ARC, the local government or applicant should provide basic project information including:
 - Site plan submitted to local government.

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- If no site plan has been submitted to the local government, then the local government or applicant should provide a zoning map, aerial or “internet map” with the subject property highlighted
 - Other project information including unit or square footage count, total site acreage, existing zoning, existing use, proposed zoning, proposed use(s).
 - Lack of detail or site plan may increase the need for review.
- When submitting additional information for the review the applicant should supply the following:
 - If the applicant is required to develop traffic impact study and site plan for GRTA review, one hard and one digital copy of each document should be supplied to ARC for the review.
 - If the applicant is not required to develop a traffic study or site plan for GRTA, then the following should be supplied to ARC for the review:
 - Development description: building square footages, unit count, overall acreage, greenspace acreage

