

ARTICLE 4.
Subdivision Regulations

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Subdivision Regulations

Sec. 4.1 General Provisions

1. The provisions of this Article, the Development Regulations, in conjunction with the Zoning Code, shall apply to any and all development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in these Regulations. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of these Regulations in conjunction with the Zoning Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in these Regulations in conjunction with the Zoning Code.
2. Except as herein provided, no building, structure, or land shall be used and no building, structure, or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved, or structurally altered except in conformance with the regulations herein specified for the district in which it is located, nor shall a yard, lot, or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.
3. These Regulations in conjunction with the Zoning Code, establish procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Comprehensive Plan and with adopted regulations, policies, and other guidelines.

Sec. 4.2 Intent

This Article is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town by:

1. Encouraging new subdivision developments to relate to the Town's historic development pattern.
2. Promoting compact, well-defined, sustainable neighborhoods that enhance the Town's character.
3. Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles.
4. Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring that streets facilitate safe, efficient and pleasant walking, biking and driving.
5. Providing a variety of lot sizes and housing types in every neighborhood.
6. Protecting sensitive natural and historic areas and the Town's environmental quality.
7. Providing for adequate and convenient open spaces for traffic, utilities, access of fire apparatus, recreation, light and air and for the avoidance of congestion of population.
8. Providing open spaces for adequate storm water management.
9. Providing adequate spaces for educational facilities.

10. Providing protection from geologic hazards and flood prone areas.
11. Ensuring compliance with this Code, the Comprehensive Plan, and the Community Design Principles and Development Standards (Article 2 of this Code).
12. Regulating such other matters as the Board of Trustees may deem necessary in order to protect the best interest of the public.

Sec. 4.3 Administration

All plans of streets or highways for public use, all plans, plats, plots, and replats of land laid out in subdivision or building lots, and the streets, highways, alleys, or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto shall be submitted for review and subsequent approval, conditional approval or disapproval. No plat shall be recorded unless the same shall bear thereon the approval of the Board of Trustees. Public dedication of streets, alleys, rights-of-way, highways, parks, open spaces, and utility easements shall be accepted by specific language on the plat.

Sec. 4.4 Types of applications

All applications submitted will fall into one of three categories: major application, minor application, or administrative application. Each application process will be outlined in subsequent sections of this Article.

1. Major applications
 - a. Major applications are applications that generally require a neighborhood meeting, have a public meeting before the Planning Commission, and a public hearing before the Board of Trustees, except Appeals and Variances which are heard by the Board of Adjustments. Appeals of a decision are heard by the Board of Adjustment.
 - b. The following applications are major applications:
 - (1) Annexation
 - (2) Zoning
 - (3) Sketch plan
 - (4) Preliminary plat
 - (5) Preliminary development plan
 - (6) Vacation of Right-of-Way/Easement
 - (7) Appeals and Variances
 - (8) Waivers
 - (9) Land Use Code amendment
 - (10) Comprehensive Plan amendment

2. Minor applications
 - a. Minor applications are applications that generally require a neighborhood meeting, have a public hearing before the Planning Commission, and a public meeting before the Board of Trustees. Appeals of a decision are heard by the Board of Adjustment.
 - b. The following applications are minor applications:
 - (1) Final plat
 - (2) Final development plan
 - (3) Minor subdivision
 - (4) Conditional use
3. Administrative applications
 - a. Administrative applications are applications that are generally approved by the Planning Director. Appeals of a decision are heard by the Board of Trustees.
 - b. The following applications are administrative applications.
 - (1) Site plan
 - (2) Subdivision amendment
 - (3) Plot plan
 - (4) Minor modification
 - (5) Special use
 - (6) Temporary use

Sec. 4.5 General Procedures

1. Pre-Application Conference
 - a. Purpose. The purpose of the pre-application conference is to provide an opportunity for the Applicant and the Town to discuss the development proposal to:
 - (1) The required application(s) and the timing of multiple application submittals (i.e., whether they may be processed concurrently or sequentially);
 - (2) Provide the Applicant with application materials and inform the Applicant of submittal requirements, including any requirements supplemental to those listed in Appendix A for the type of application;
 - (3) Obtain a waiver of any application submittal requirements from the Planning Director;
 - (4) Provide the Applicant with an approximate time frame for the review process;
 - (5) Discuss compliance with the applicable development standards;
 - (6) Determine the number and timing of any required neighborhood meetings; and
 - (7) Refer the Applicant to other departments or agencies to discuss significant issues prior to application submittal.
 - b. Applicability. Unless waived, a pre-application conference is required for all major applications. The Planning Director may grant a waiver from the requirement for a pre-application conference upon finding that the on-site and off-site impacts of the proposed development are likely to be minimal.

- c. Attendance. The Applicant and other Town staff or agency representatives may participate in the pre-application conference.
- d. Request for a Pre-Application Conference. To request a pre-application conference, the Applicant shall contact the Planning Department. A general description of the proposed development will be required. Dependent on the complexity of the proposal, additional documentation may be required.
- e. Effect of the Pre-Application Conference. The opinions presented during a pre-application conference are informational only and do not represent a commitment on behalf of the Town regarding the acceptability of the development proposal.
- f. Timely Application Submittal Required. If a development application is not submitted within 180 days of the pre-application conference, the Applicant shall schedule and attend another pre-application conference before submitting an application.

2. Neighborhood Meetings

- a. Intent and Purpose. To facilitate citizen participation early in the development review process, the Town requires neighborhood meetings between Applicants and citizens of neighborhoods potentially affected by the development proposal.
 - (1) Applicability. Unless waived, neighborhood meetings are required for all major and minor applications. Administrative applications may require a neighborhood meeting as determined by the Planning Director. The Planning Director may waive a neighborhood meeting if it is determined that the development proposal would not have significant neighborhood impacts. The Director may wait until after the application has been submitted and reviewed to determine if a neighborhood meeting is appropriate based on the anticipated impacts of a development. The Planning Director shall determine the applicability of this subsection to a development proposal at the pre-application conference.
- b. Timing and Number of Neighborhood Meetings
 - (1) When required, at least one (1) neighborhood meeting shall be held after the pre-application conference, but before submittal of a formal application. At the Planning Director's discretion, additional pre-application or post-application neighborhood meetings may be required based on consideration of the proposed development's mix of uses, density, complexity, potential for adverse impacts, or the need for off-site public improvements created by the development.
 - (2) Applicants' failure to hold and complete all required neighborhood meetings shall delay review of the application or shall result in an inactive application.
- c. Notice of Neighborhood Meeting. The Applicant is responsible for scheduling neighborhood meetings. The Applicant shall give written notice of the neighborhood meeting according to Section 4.5.6. If available and appropriate, the neighborhood meeting should be convened at a place in the vicinity of the proposed development.

- d. Content of Neighborhood Meeting. The Applicant or Applicant's representative shall present a summary of the development proposal and be available to answer questions and receive comments from persons attending the meetings. In the event that no one attends the meeting for which proper notice was given the Applicant shall have satisfied the requirements for that neighborhood meeting.
- e. Summary of Neighborhood Meeting. The Applicant shall prepare a written summary of the neighborhood meeting(s). The written summary shall be included in the reports provided to both the Planning Commission and the Board of Trustees. At a minimum, the written summary shall include the following information:
 - (1) The substance of the comments and questions;
 - (2) How the Applicant has addressed or intends to address the comments and questions; and
 - (3) Comments and questions the Applicant is unwilling or unable to address and why.

3. Complete Applications Required

- a. An application shall be considered complete if it is submitted in the required form, includes all submittal information, including all items or exhibits specified during the pre-application conference, and is accompanied by the applicable fees and deposits. In addition, an application shall be considered complete only if the information contained therein is adequate to enable staff to ultimately determine whether the proposed development activity will comply with this Code's substantive requirements. Only Complete Applications, as set forth in this provision, shall be considered an "application" pursuant to C.R.S. §24.68-101 et seq.
- b. Each application will be reviewed for completeness within seven (7) days of the application submittal deadline.
 - (1) If the application is determined to be complete, the application shall then be processed under this Article. A letter will be sent to the Applicant verifying that the application is complete.
 - (2) If the application is determined to be incomplete, the application shall then be returned to the Applicant as incomplete with a letter identifying how the application is deficient.

4. Planning Director Authority to Refer Applications to Planning Commission and Board of Trustees

- a. Whenever the Planning Director is authorized to take final action on an application, the Planning Director may instead refer the application to the Planning Commission and Board of Trustees for their review and action, based on the Planning Director's determination that the proposed development's complexity, projected impacts, or proximity to conflicting land uses merits such action. The Planning Director may also refer the application to the Planning Commission and the Board of Trustees when there is a disagreement with the Applicant over the applicability of, or compliance with, any design or development standard set forth in this Code.

- b. Written notice of such referral shall be sent to the Applicant within seven (7) days of the Planning Director's decision to refer the application. The application and written notice of the referral shall be sent to the Planning Commission and Board of Trustees according to Section 4.10.7.b below. Appeals of the Board of Trustees decision are taken to the Board of Adjustment pursuant to Section 4.7.7.

5. Concurrent Review

- a. The Applicant may request, subject to the Planning Director's approval, concurrent processing and review of various development applications.
- b. When a final plat or plan is submitted for concurrent review with the preliminary plat or plan, both shall be reviewed according to the preliminary plat or plan approval process (a major application), as outlined in this Article. Additionally, all concurrent plats/plans must meet the review criteria of a final plat or plan. Unless concurrent review is approved, the Town shall not accept applications for final plat or plan approval before preliminary plat or plan application approval.
- c. The expected time frame and approval process for a consolidated application shall follow the longest time frame and approval process required from among the application types.

6. Written Notices

- a. All written notices required under this Code shall:
 - (1) Indicate the time and place of the public hearing, meeting or action;
 - (2) Describe the property involved by street address, if available, and nearest cross streets;
 - (3) Describe the nature, scope, and purpose of the application or proposal being advertised;
 - (4) Indicate that interested parties may appear at a public hearing or meeting and, if applicable, speak on the matter; and
 - (5) Indicate where additional information can be obtained.
- b. The area of notification is dependent on the type of development application as follows:

(1) Major application	One thousand feet (1000')
(2) Minor application	Five hundred feet (500')
(3) Administrative application	Three hundred feet (300')
- c. The Planning Director may expand or contract the required notification area in the following circumstances only:
 - (1) Adjustments may be made so that the boundaries of the notification area coincide with streets or other distinctive physical features, and therefore create a more practical and rational boundary for the notification area.
 - (2) The Planning Director may contract the required notification area if it is determined that the potential impacts from the proposed development will likely be limited to either the subject parcel or only to immediately adjacent properties.
- d. Written notices shall be mailed by:

- (1) By U.S.P.S. First Class mail to all property owners within the required notification areas.
 - (2) By U.S.P.S. First Class mail to all neighborhood associations, organizations, or groups whose defined boundaries lie within required notification areas.
 - (3) By certified mail return receipt requested or by a nationally recognized overnight courier to all owners of subsurface mineral rights in the subject property as required by C.R.S. § 24-65.5-101 et seq.
- e. Written notices to property owners within the specified notification area are required to be sent out no later than fifteen (15) days before the hearing, meeting, or action. The following milestones require written notices to be sent:
- (1) Neighborhood meeting
 - (2) Upon receipt of a complete application
 - (3) Setting of public meeting/public hearing dates. One notice will be sent notifying both the public meeting and public hearing dates.
- f. Written notices to mineral interest owners:
- (1) Are required to be sent out no later than thirty (30) days before the initial public hearing.
 - (2) Require a certification to be submitted verifying that notices were sent no later than thirty (30) days before the initial public hearing. This certification must be submitted to the Planning Department no later than fifteen (15) days before the public hearing.
 - (3) Fifteen (15) days prior to the Board of Trustees date for a final plat, a certification must be submitted to the Planning Department verifying that notices were sent, a Surface Use Agreement has been recorded, the recordation number of the Surface Use Agreement, and stating how the applicant has complied with State Statute 24.65.5.101 et seq. This certification must include a statement of authority for the signor of the certification.

7. Posted Notification

- a. When the provisions of this Code require that notice be posted on the subject property, the Applicant shall:
 - (1) Post the notice on weatherproof signs that have been approved by the Town;
 - (2) Place the signs on the property that is the subject of the application;
 - (3) Ensure that the signs remain in place and legible during the period leading up to the public hearing or, in the case of minor applications, during the period leading up to the Decision-Making Body's final action.
- b. The size of the sign shall meet the requirements of the Town.
- c. Signs shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents and passers-by. At least one (1) sign shall be posted on each street frontage of the subject property.
- d. Applicants shall be responsible for removing the signs after the public hearing or final action.
- e. Required timing:

- (1) Notices of Application – All such notices shall be posted as soon as reasonably possible after the Town has certified that an application is complete.
- (2) Notices of Public Hearing – All such notices shall be posted no later than fifteen (15) days before the hearing.
- (3) Upon posting the notification on the property, the Applicant shall certify in writing that required notice was posted according to the requirements of this section. Failure to submit such certification shall postpone Town action on the application. The Applicant shall have until the close of business prior to the date of the postponed or continued hearing to submit the posted notice certification. If the Application fails again to submit the certification, the application shall be considered withdrawn.

8. Published Notice

- a. When the provisions of this Code require that notice be published, the Planning Director shall be responsible for preparing the content of the notice, and shall ensure that notice is published in a newspaper of general circulation. Published notice shall appear in the newspaper no later than fifteen (15) days prior to the hearing or action.

9. Types of Public Notice Required

- a. Unless otherwise expressly provided in this Code, public notice shall be provided as follows:

Table 4.1 Public Notice Requirements			
Type of Application	Notice Required		
	Written	Published	Posted
Major	Yes	Yes	Yes
Minor	Yes	Yes	Yes
Administrative	Yes	No	Yes

10. Document Recording

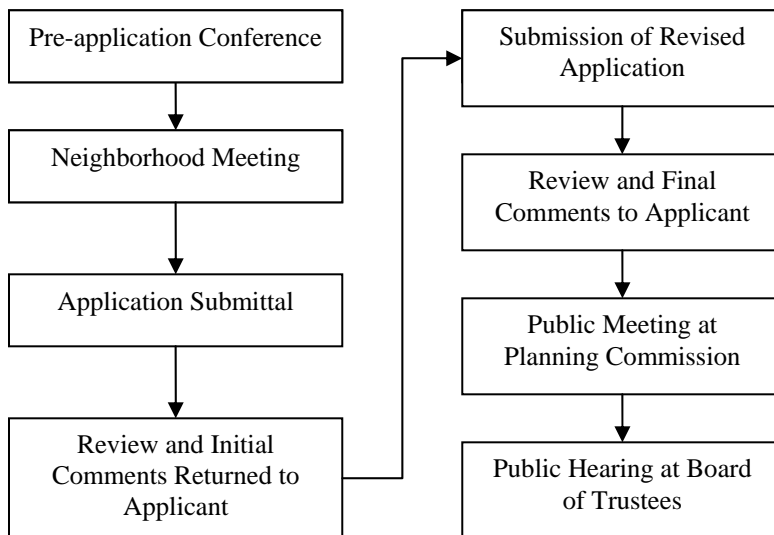
- a. The following applications will have mylars recorded with the County Clerk and Recorder:
 - (1) Annexation
 - (2) Zoning (original and re-zoning)
 - (3) Final Plat
 - (4) Minor Subdivision
 - (5) Subdivision Amendment

- b. The following applications will have a document recorded with the County Clerk and Recorder confirming that approval of a development application that may or may not include conditions of approval:
 - (1) Sketch Plan
 - (2) Preliminary Plat
 - (3) Preliminary Development Plan
 - (4) Comprehensive Plan Amendment
 - (5) Final Development Plan

Sec. 4.6 Major Application Review Procedure

All applications classified as major applications are outlined in Section 4.4.1. The following development review procedure shall apply to all major applications, unless variations or exceptions to the core procedure are expressly allowed in the particular application requirements stated in Section 4.7.

Core Major Application Development Review Procedure



1. Step 1: Pre-Application Conference
 - a. A pre-application conference is mandatory for all major development applications. The Planning Director may grant a waiver from the requirement for a pre-application conference upon finding that the on-site and off-site impacts of the proposed development are likely to be minimal.
 - b. See Section 4.5.1 for applicable requirement for the pre-application conference, including attendance, scheduling, Planning Director review and recommendations, and effect of pre-application conference.
2. Step 2: Neighborhood Meetings

- a. **Applicability.** Unless waived, neighborhood meetings are required for all major applications. The Planning Director may waive a neighborhood meeting if it is determined that the development proposal would not have significant neighborhood impacts. The Director may also wait until after the application has been submitted and reviewed to determine if a neighborhood meeting is appropriate based on the anticipated impacts of a development. The Planning Director shall determine the applicability of this subsection to a development proposal at the pre-application conference.
 - b. **Applicable Requirements.** See Section 4.5.2 for applicable requirements for a neighborhood meeting, including timing and number, notice, attendance, and Applicant's written summary.
3. **Step 3: Application Submittal**
 - a. The Applicant shall submit a complete application and all applicable submittal material in one package to the Planning Department. The submittal will be reviewed for completeness as outlined in Section 4.5.3 and Appendix A.
 - b. After the initial application is determined to be complete, the Applicant shall not make any changes to the development application or any accompanying plans or information, unless changes or additional information is requested.
 4. **Step 4: Notice of Application and posting of property**
 - a. Notices of application must be sent out upon certification that an application is complete. The applicant will supply the names and addresses for the surrounding property owners according to the required distance outlined in Section 4.5.6. Stamped envelopes will also be provided by the applicant.
 - b. The applicant will post the property according to Section 4.5.7.
 5. **Step 5: Review and Initial Comments to Applicant**
 - a. After receipt of a complete application, the plans will be distributed to Town Staff and applicable referral agencies. The application will be reviewed for technical accuracy, compliance with this Land Use Code, and other relevant regulations and ordinances, and shall evaluate the proposal according to adopted review criteria.

Referral agencies will be given twenty-one (21) days to provide comments to the Project Planner. Comments provided by referral agencies will be communicated to the applicant in a formal Development Review report.
 6. **Step 6: Submission of Revised Application**

- a. After the initial comments are received by the Applicant, the Applicant shall revise the development application as necessary to respond to all comments in the initial report and shall submit the revised application package to the Planning Department. The Applicant is encouraged to work with the staff and agencies to resolve any concerns. Revised plans shall reflect all resolutions. Any remaining issues should be documented and communicated to both Town Staff and applicable agencies. The revised application shall include the Applicant's response to each comment raised by Town Staff and referral agencies.
- b. The Applicant shall submit the revised application and related materials to the Planning Department within one hundred twenty (120) days. If a revised application is not received within this time frame, the Applicant will be notified that the lack of submittal constitutes a withdrawn project unless a revised application is received within an additional sixty (60) days. If an application is not submitted and no extension has been approved by the Planning Director in the allowed one hundred eighty (180) days, the application shall be considered withdrawn. Any resubmittal of the application will be treated as a new application.

7. Step 7: Review and Final Comments

- a. After an application has been submitted for second review, the project will be reviewed by Town Staff and referral agencies with outstanding comments in the initial comments. The timeframe for this review will range from ten to twenty-one (10 – 21) days as determined by the Project Planner, based on the level of complexity of the outstanding comments.
- b. Written comments will be submitted by the Project Planner and review agencies. Comments will include a final recommendation on the application.
- c. A final report compiling all comments will be provided to the Applicant. The report will outline any comments left to be addressed and tentative meeting/hearing dates. Any comments left unaddressed will become recommended conditions of approval.
- d. The Project Planner shall communicate with the Applicant when scheduling the public meeting and public hearing dates.

8. Step 8: Notice of public hearing and posting of the property

- a. Notices of public hearing must be sent out not less than fifteen (15) days prior to the public meeting date to the surrounding property owners according to the required distance outlined in Section 4.5.6. Stamped envelopes will also be provided by the applicant.
- b. The applicant will post the property according to Section 4.5.7.

9. Step 9: Public Meeting at Planning Commission

- a. The Planning Commission will hear major applications at a public meeting. Recommendations of the Planning Commission are forwarded to the Board of Trustees for consideration.

- b. In order to finalize the schedule of a project, Applicants are required to submit the following items to the Project Planner no later than fifteen (15) days prior to the Planning Commission date:
 - (1) Envelopes addressed to each property owner within the required notification area.
 - (2) A letter to the Planning Commission describing the project;
 - (3) Copies of all application plans, and;
 - (4) Electronic versions of each of the above documents.
- c. After the Applicant has submitted the required materials for Planning Commission, the Project Planner shall prepare a report to be presented to Planning Commission. The report shall include the written summary of any neighborhood meetings, shall report whether the application complies with all applicable standards, shall specify any areas of noncompliance, and shall conclude, when applicable, with a recommendation for application approval, approval with conditions, or denial.
- d. The report to Planning Commission shall be made available to Planning Commission, the Applicant, and the public at least five (5) days prior to the public meeting on the application.
- e. The Planning Commission's recommendation to the Board of Trustees shall be documented in a Planning Commission Resolution, which will be presented to the Board of Trustees.

10. Step 10: Public Hearing at Board of Trustees

- a. The Board of Trustees will hear major applications at a public hearing following the public meeting of the Planning Commission.
- b. Following the Planning Commission meeting, the Applicant is required to submit the following items to the Project Planner no later than 10 days prior to the Board of Trustees date:
 - (1) Copies of all application plans reduced to eleven by seventeen inches (11" x 17") and;
 - (2) Electronic versions of each of the above documents.
 - (3) Each legal description related to the application in an electronic version of Microsoft Word.
- c. The Project Planner shall prepare a report to be presented to Board of Trustees that includes the written summary of any neighborhood meetings, shall report whether the application complies with all applicable standards, shall specify any areas of noncompliance, shall convey the recommendation of the Planning Commission, and shall conclude with a recommendation for application approval, approval with conditions, or denial.
- d. The report to the Board of Trustees shall be made available to the Board of Trustees, the Applicant, and the public at least five (5) days prior to the public meeting on the application.
- e. Should the Board of Trustees deny the application, appeals may be made to the Board of Adjustments following Section 4.7.7 of this Code.

Sec. 4.7 Specific Requirements and Review Standards for Major Applications

1. Annexation

- a. An application for annexation shall follow the core procedure for review of major applications, stated in Section 4.6. Additionally, the process shall follow the modifications outlined in Article 13 of the Land Use Code and C.R.S § 31.12.101 et seq.

2. Zoning

- a. Initiation of amendments to the zoning district map may be initiated by the Board of Trustees, Town staff, the Planning Commission, or a real property owner in the area to be included in the proposed amendment. Zoning at the time of annexation is included as an amendment to the zoning district map.
- b. General rezoning of Town. The zoning district map may be changed or amended incidental to or as part of a general revision of the zoning code. This change or amendment may be made by repeal of the existing zoning code and enactment of a new zoning code or by other means. Whenever the zoning district map is in any way to be changed or amended, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of, the proposed change shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.
- c. The application shall include a written statement describing the proposal and addressing the following points:
 - (1) Need for the proposed rezoning;
 - (2) Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area;
 - (3) Impact of the proposed zone on area accesses and traffic patterns;
 - (4) Availability of utilities for any potential development;
 - (5) Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools and transit;
 - (6) The relationship between the proposal and the Comprehensive Plan; and
 - (7) Public benefits arising from the proposal.
- d. Review Criteria. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:
 - (1) To correct a manifest error in an ordinance establishing the zoning for a specific property;
 - (2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;
 - (3) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;

- (4) The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;
- (5) The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
- (6) A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.

This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map.

- e. Map; amendment upon zoning establishment or modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

3. Sketch plan

- a. Sketch plan purpose. The sketch plan process is collaborative from the onset. The purpose of the sketch plan is two-fold. First, it provides the Town the opportunity to describe the community's vision to the applicant. Second, it gives the applicant an opportunity to discuss his or her development plans, explain how the plans will further the community's vision and obtain input and direction from the Planning Commission and Board of Trustees early in the process. The ultimate goal of this process is to help the applicant develop a plan that fosters the community's vision.
- b. In addition to the submittal requirements found in Appendix A, an application for a sketch plan must include a written description as part of the general development information which includes:
 - (1) Design rationale. Discuss how the development is connected to and integrated with surrounding area, how it responds to site features and constraints and how it will be compatible with the Community Design Principles and Development Standards in Article 2 of this Code.
 - (2) Proposed number of residential lots or dwelling units, typical lot width and depth.
 - (3) General description of plan for drainage and storm water management. (Refer to *Weld County Tri-Area Sanitation District's Standard Requirements for Storm Drainage Design Criteria and Construction Standards* or the *I-25 Corridor Master Drainage Plan Godding Hollow and Tri-Town Basins South Weld County, Colorado* as determined at the pre-application conference.)
 - (4) Water supply information including: the number of water taps anticipated; the amount of raw water that will be provided to the Town (consistent with Central Weld County Water District policy); and the source of the water (if part of an annexation, the source of raw water).

- (5) Statement indicating whether or not any commercial mineral deposits are located on the site.
 - (6) Description of any floodplain hazards on the site (only if additional information is needed other than what is shown on the sketch plan map).
 - (7) Show how the proposed development complies with the Comprehensive Plan.
- c. Sketch plan review criteria. The Town shall use the following criteria to evaluate the applicant's sketch plan application:
- (1) The land use mix within the project conforms to the Town's *Zoning District Map* and *Comprehensive Land Use Map* and furthers the goals and policies of the Comprehensive Plan, including:
 - (a) The proposed development promotes the Town's small-town, rural character;
 - (b) Proposed residential development adds diversity to the Town's housing supply;
 - (c) Proposed commercial development will benefit the Town's economic base;
 - (d) Parks and open space are incorporated into the site design;
 - (e) The proposed project protects the Town's environmental quality; and
 - (f) The development enhances cultural, historical, educational and/or human service opportunities.
 - (2) The sketch plan represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Comprehensive Plan.
 - (3) The utility and transportation design is adequate, given existing and planned capacities of those systems.
 - (4) Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
 - (5) There is a need or desirability within the community for the applicant's development, and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals.
- d. Approval and conditional approval of a sketch plan shall be effective for two (2) years unless otherwise approved by the Board of Trustees. If the plan is denied, the request or one (1) that is substantially similar may not be heard by the Planning Commission for a period of one (1) year from the date of denial unless otherwise approved by the Planning Commission. If a preliminary plat is not submitted within said time limit or an extension has not been granted, a sketch plan must again be submitted before action may be taken on a final plat.

4. Preliminary plat

- a. Preliminary plat purpose. The purpose of the preliminary plat is to provide the Town with an overall master plan for the proposed development.
- b. Preliminary plat review criteria. The Town shall use the following criteria to evaluate the applicant's request:
 - (1) The preliminary plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Comprehensive Plan.

- (2) The application is consistent with the approved sketch plan and incorporates the Planning Commission's recommendations and conditions of approval.
 - (3) The land use mix within the project conforms to the Town's *Zoning District Map* and *Comprehensive Land Use Map* and furthers the goals and policies of the Comprehensive Plan, including:
 - (a) The proposed development promotes the Town's small-town, rural character;
 - (b) Proposed residential development adds diversity to the Town's housing supply;
 - (c) Proposed commercial development will benefit the Town's economic base;
 - (d) Parks and open space are incorporated into the site design;
 - (e) The proposed project protects the Town's environmental quality; and
 - (f) The development enhances cultural, historical, educational and/or human service opportunities.
 - (4) The utility and transportation design is adequate, given existing and planned capacities of those systems.
 - (5) Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
 - (6) There is a need or desirability within the community for the applicant's development, and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals.
- c. Approval and conditional approval of a preliminary plat shall be effective for one (1) year unless otherwise approved by the Board of Trustees. If the plat is denied, the request or one (1) that is substantially similar may not be heard by the Planning Commission for a period of one (1) year from the date of denial unless otherwise approved by the Planning Commission. If a final plat is not submitted within said time limit or an extension has not been granted, a preliminary plat must again be submitted before action may be taken on a final plat.

5. Preliminary development plan

- a. Preliminary development plan purpose. The purpose of a preliminary development plan is to outline the proposed standards associated with a specific planned unit development overlay district.
- b. In addition to the submittal requirements found in Appendix A, an application for a preliminary development plan must include a written description as part of the general development information which includes:
 - (1) List all subdivision regulation exceptions being proposed for the development plan and explain why such exceptions are justified.
 - (2) Identify the underlying zoning district for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the district. Provide a comparison between the proposed preliminary development plan to the elements and standards of the underlying zone district as contained in this Code. If any conditional uses are requested, explain how the conditional use review criteria (refer to Section 4.9.4) will be addressed.

- (3) Describe how the proposed development plan overlay rezoning satisfies one (1) or more of the criteria for amendments to the Official Zoning Map (Section 4.7.2).
 - (4) Identify and explain the benefits which will be provided by the development plan to offset the impact of the modifications requested. The proposed benefits must offset the proposed modifications.
 - (5) Explain how the proposed development plan will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Describe buffering techniques which serve to achieve such compatibility.
 - (6) Draft copies of owners' association documents (covenants, conditions, restrictions and any architectural design guidelines) that provide an acceptable program for the continuing maintenance of open space, recreational areas, walkways and private streets within the PUD; that detail the type of organizational structure responsible for such ongoing maintenance; and that provide for architectural review based on the design guidelines.
 - (7) Provide any additional relevant information which the Town may deem necessary.
- c. In addition to the map standards found in Appendix A, the preliminary development plan must include:
- (1) All principal, conditional and accessory uses within each land use category within the PUD; i.e., single-family, multi-family, commercial, etc., either listed specifically or by reference to the zoning districts within the Town. In particular, note any modifications to the principal, conditional and accessory uses of the underlying zone district.
 - (2) Standards for principal and accessory uses within each land use category, to include:
 - (a) Minimum lot area.
 - (b) Maximum lot coverage
 - (c) Maximum floor area ratio (total floor area to total lot area)
 - (d) Maximum building height
 - (e) Parking requirements for principal, accessory and conditional uses
 - (f) Provide any additional relevant information which the Town may deem necessary.
 - (3) Proposed phasing, if any, for the development.
- d. Standards not open to modification. The following community design principles and development standards are considered absolute minimum standards and are not open to modification through an exception process:
- (1) Road standard (cross-section) for local streets with attached sidewalk;
 - (2) Requirement of one (1) street tree of two-inch caliper for each forty (40) feet of frontage on both sides of the street (except for rural roads and alleys);
 - (3) Dedication of the full width of right-of-way for all platted streets; and
 - (4) Provision of handicap parking spaces.
- e. Preliminary development plan review criteria. The following review criteria will be used to evaluate a preliminary development plan application.

- (1) The proposed benefits offset the proposed exceptions to the Zoning and Subdivision standards, and that such exceptions are in the best interest of the public health, safety, and welfare of the community.
- (2) The proposed development plan does not conflict with the restrictions on development plans, and the proposed zoning is compatible with the surrounding land uses.
- (3) The development plan proposes creative and innovative design and high quality development, thereby protecting and promoting public safety, convenience, health, and general welfare.
- (4) The uses and densities in the proposed development plan are compatible, and will be effectively integrated with adjacent neighborhoods which now exist or are proposed in the future.
- (5) The proposed development plan is in general conformance with the Comprehensive Plan.
- (6) One (1) or more of the criteria for amendment of the official zoning map has been satisfied (See Section 4.7.2).

6. Vacation of Right-of-Way/Easement

- a. Vacation of right-of-way/easement purpose. The vacation of a right-of-way or easement application process is used to vacate unnecessary easements and rights-of-way. The vacation of a right-of-way or easement shall be in accordance with C.R.S. § 43-2-301 et seq.
- b. After final approval, Title to vacate a right-of-way shall be transferred to the abutting property owners in accordance with C.R.S. § 43-2-303 Transfer shall be by quitclaim deed.
- c. Vacation of right-of-way/easement review criteria:
 - (1) The right-of-way or easement being vacated is not needed in the short or long term.
 - (2) If necessary, the right-of-way or easement will be replaced. To replace the right-of-way or easement, the vacation application shall be accompanied by a development application which proposes a new right-of-way or easement.
 - (3) The applicant is relocating all public facilities or utilities within the right-of-way or easement.
 - (4) The public and surrounding properties will not be negatively impacted by the vacation.

7. Appeals and Variances

- a. Purpose. The Board of Trustees, sitting as a Board of Adjustment, shall hear and decide appeals from any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Code. In addition, the Board of Adjustment shall hear and decide all requests for a variance from the requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

- b. Appeal application. Any aggrieved person of interest may appeal a denial of a building or other development permit or any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of this Code.
- (1) An appeal to the Board shall be made within thirty (30) days after denial of a building permit or other development permit, or receipt of a written notice of an order, requirement, decision, interpretation or determination by an administrative official of the Town. Failure to make a timely appeal shall be considered a waiver of the appellant's rights to appeal to the Board of Adjustment.
 - (2) The applicant shall file with the Town Clerk a written notice of appeal on a form approved by the Board and pay the fee set by the current fee schedule.
 - (3) The Town Clerk shall forward a copy of the notice of appeal to the planning staff or other appropriate administrative officer, who shall prepare a record of the Town action that is being appealed for consideration by the Board.
- c. Variance application. Any person of interest or an officer or department of the Town may apply to the Board for a variance from the literal interpretation of the provisions this Code.
- (1) Variances requests in conjunction with other applications. In addition to the submittal requirements found in Appendix A, the Applicant shall submit the following to the Planning Department in conjunction with the other application:
 - (a) Explanation letter, identifying the variance being requested
 - (b) A citation of the portion of this Code from which relief is requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the variance.
 - (c) A letter addressing how the variance, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
 - (2) Stand-alone variance requests. If the variance request is not accompanying another application which graphically depicts the variance, the applicant shall submit the following to the Planning Department in addition to the requirements found in Appendix A:
 - (a) Explanation letter addressing how the variance, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
 - (3) Board of Adjustment public hearing and action on appeal or variance request. The Board of Trustees, sitting as a Board of Adjustment, shall make a decision on appeal and variances at a regular meeting of the Board of Trustees.
 - (a) The Appellant, or the Applicant for a Variance, has the burden of proof to establish the necessary facts to warrant favorable action of the Board.
 - (b) The Board shall have all the powers of the applicable Town administrative official on the action appealed. The Board may in whole or in part affirm, reverse or amend the decisions of the applicable Town administrative official.
 - (c) The Board may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of this Code.

- (d) The Board may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested.
- (e) No single decision of the Board sets a precedent. The decision of the Board shall be made on the particular facts of each case.
- (f) Variances granted by the Board of Adjustment shall be recorded with the County Clerk and Recorder at the expense of the Applicant.

Any appeal of the decision of the Board of Adjustment may be made to the District Court as provided by law; provided however, that such appeal must be made prior to thirty (30) days following the date of the final action taken by the Board of Adjustment, as provided by Rule 106, Colorado Rules of Civil Procedure.

- d. Appeal criteria for approval. The Board, in hearing an appeal from an interpretation of this Code, shall consider:
 - (1) The technical meaning of the provision being appealed;
 - (2) Evidence of the manner in which the provision has been interpreted in the past;
 - (3) The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and
 - (4) The intent of the provision in implementing the Comprehensive Plan.

In approving a requested interpretation, the Board shall provide a written record of its findings and the staff shall use it to propose amendments that address future interpretation problems.

- e. Variance criteria for approval. The Board shall not grant a variance to this Code which:
 - (1) Permits a land use not allowed in the zoning district in which the property is located;
 - (2) Is in the public right-of-way or on public property;
 - (3) Alters any definition of this Code;
 - (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of this Code;
 - (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to of this Code; or
 - (6) Is based exclusively on findings of personal or financial hardship. Convenience, profit or caprice shall not constitute undue hardship.
- f. In order to grant a variance to this Code, the Board shall find that all the following have been satisfied:
 - (1) That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition particular to the affected property;
 - (2) That, because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of this Code;
 - (3) That, due to such unique physical circumstances or conditions, the strict application of this Code would create a demonstrated hardship;
 - (4) That the demonstrable hardship is not self-imposed;

- (5) That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood;
- (6) That the variance, if granted, will not change the character of the zoning district in which the property is located;
- (7) That the variance, if granted, is in keeping with the intent of this Code; and
- (8) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of the Town.

The condition of any variance authorized shall be stated in writing in the minutes of the Board of Adjustments with the justifications set forth.

- g. Notice. Public notice of an appeal or variance submitted independent of any other application shall be completed by:
 - (1) Publishing notice according to Section 4.5.8.
 - (2) Written notice shall be provided to adjacent property owners at least fifteen (15) days prior to the date of the Board of Adjustments hearing.

8. Waivers

- a. Purpose. The Board of Trustees authorizes waivers from the Land Use Code in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan, or impair the intent and purpose of this Code.
- b. Waiver application; waiver requests in conjunction with other applications. In addition to the requirements of Appendix A, the Applicant shall submit the following to the Planning Department in conjunction with another application:
 - (1) Explanation letter, identifying the waiver being requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
- c. Waiver criteria for approval. The condition of any waiver authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth. Waivers may be granted only if they meet the following criteria:
 - (1) The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
 - (2) The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the subdivision ordinance provisions which are in question.
 - (3) Such practical difficulties or unnecessary hardship has not been created by the applicant.
- d. Review body. If a waiver is submitted independent of any other application, the waiver application shall be presented to the Board of Trustees alone for consideration at a public meeting.
- e. Notice. Public notice of a waiver submitted independent of any other application shall be completed by:

- (1) Publishing notice according to Section 4.5.8.
- (2) Written notice shall be provided to adjacent property owners at least fifteen (15) days prior to the date of the Board of Trustees hearing.

9. Land Use Code amendment

- a. Initiation of amendments to text. The Board of Trustees may, from time to time, amend, supplement, change or repeal the regulations and provisions of this Code. Amendments to the text of the zoning code may be initiated by the Board of Trustees, Town staff, or Planning Commission, or by written application of any property owner or resident of the Town.
- b. Criteria for text amendments to zoning code. For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the text of this Code shall not be amended except:
 - (1) To correct a manifest error in the text of this Code;
 - (2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff;
 - (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or
 - (4) To further the implementation of the goals and objectives of the Comprehensive Plan.

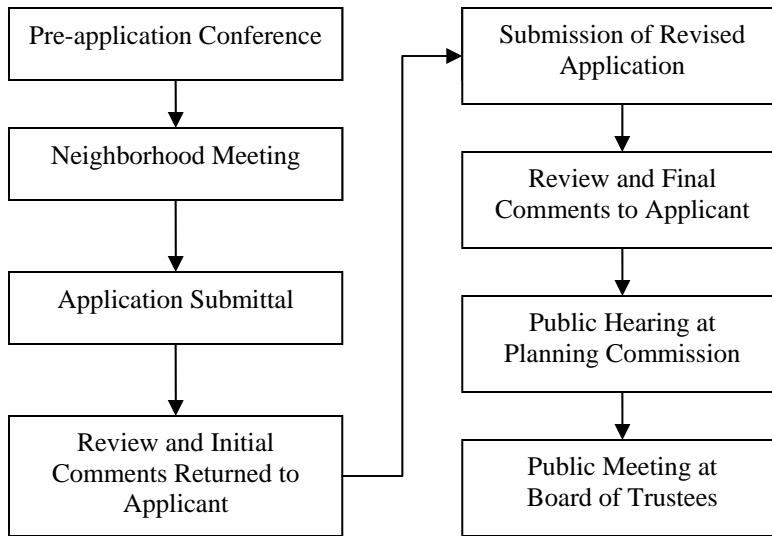
10. Comprehensive Plan amendment

- a. The Planning Commission is the final decision maker on all requests to amend the Comprehensive Plan. Following a public hearing at the Planning Commission, the decision will be presented to the Board of Trustees in a public meeting.
- b. Review criteria. The Comprehensive Plan may be amended pursuant to the following criteria:
 - (1) The amendment improves the implementation of one or more of the goals, policies, and strategies of The Town of Frederick Comprehensive Plan, 2006.
 - (2) The amendment will not pose a detrimental impact on existing or planned Town facilities, services or transportation facilities.
 - (3) The amendment will not interfere with the existing or emerging land use patterns and densities/intensities of the surrounding neighborhoods as depicted on the Land Use Plan and contained within the Town of Frederick Comprehensive Plan, 2006.
 - (4) The amendment will not interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services.

Sec. 4.8 Minor Application Review Procedure

All applications classified as minor applications are outlined in Section 4.4.2. The following development review procedure shall apply to all minor applications, unless variations or exceptions to the core procedure are expressly allowed in the particular application requirements stated in Section 4.9.

Core Minor Application Development Review Procedure



1. Step 1: Pre-Application Conference

- a. A pre-application conference is mandatory for all minor development applications. The Planning Director may grant a waiver from the requirement for a pre-application conference upon finding that the on-site and off-site impacts of the proposed development are likely to be minimal.
- b. See Section 4.5.1 for applicable requirement for the pre-application conference, including attendance, scheduling, Planning Director review and recommendations, and effect of pre-application conference.

2. Step 2: Neighborhood Meetings

- a. **Applicability.** Unless waived, neighborhood meetings are required for all minor applications. The Planning Director may waive a neighborhood meeting if it is determined that the development proposal would not have significant neighborhood impacts. The Director may also wait until after the application has been submitted and reviewed to determine if a neighborhood meeting is appropriate based on the anticipated impacts of a development. The Planning Director shall determine the applicability of this subsection to a development proposal at the pre-application conference.
- b. **Applicable Requirements.** See Section 4.5.2 for applicable requirements for a neighborhood meeting, including timing and number, notice, attendance, and Applicant's written summary.

3. Step 3: Application Submittal

- a. The Applicant shall submit a complete application and all applicable submittal material in one package to the Planning Department. The submittal will be reviewed for completeness as outlined in Section 4.5.3 and Appendix A.

- b. After the initial application is determined to be complete, the Applicant shall not make any changes to the development application or any accompanying plans or information, unless changes or additional information is requested.
4. Step 4: Notice of Application and posting of property
 - a. Notices of application must be sent out upon certification that an application is complete. The applicant will supply the names and addresses for the surrounding property owners according to the required distance outlined in Section 4.5.6. Stamped envelopes will also be provided by the applicant.
 - b. The applicant will post the property according to Section 4.5.7.
5. Step 5: Review and Initial Comments to Applicant
 - a. After receipt of a complete application, the plans will be distributed to Town Staff and applicable referral agencies. The application will be reviewed for technical accuracy, compliance with this Land Use Code, and other relevant regulations and ordinances, and shall evaluate the proposal according to adopted review criteria.

Referral agencies will be given twenty-one (21) days to provide comments to the Project Planner. Comments provided by referral agencies will be communicated to the applicant in a formal Development Review report.
6. Step 6: Submission of Revised Application
 - a. After the initial comments are received by the Applicant, the Applicant shall revise the development application as necessary to respond to all comments in the initial report and shall submit the revised application package to the Planning Department. The Applicant is encouraged to work with the staff and agencies to resolve any concerns. Revised plans shall reflect all resolutions. Any remaining issues should be documented and communicated to both Town Staff and applicable agencies. The revised application shall include the Applicant's response to each comment raised by Town Staff and referral agencies.
 - b. The Applicant shall submit the revised application and related materials to the Planning Department within one hundred twenty (120) days. If a revised application is not received within this time frame, the Applicant will be notified that the lack of submittal constitutes a withdrawn project unless a revised application is received within an additional sixty (60) days. If an application is not submitted and no extension has been approved by the Planning Director in the allowed one hundred eighty (180) days, the application shall be considered withdrawn. Any resubmittal of the application will be treated as a new application.
7. Step 7: Review and Final Comments
 - a. After an application has been submitted for second review, the project will be reviewed by Town Staff and referral agencies with outstanding comments in the initial comments. The timeframe for this review will range from ten to twenty-one (10 – 21) days as determined by the Project Planner, based on the level of complexity of the outstanding comments.

- b. Written comments will be submitted by the Project Planner and review agencies. Comments will include a final recommendation on the application.
 - c. A final report compiling all comments will be provided to the Applicant. The report will outline any comments left to be addressed and tentative meeting/hearing dates. Any comments left unaddressed will become recommended conditions of approval.
 - d. The Project Planner shall communicate with the Applicant when scheduling the public meeting and public hearing dates.
8. Step 8: Notice of public hearing and posting of the property
- a. Notices of public hearing must be sent out not less than 14 days prior to the public meeting date to the surrounding property owners according to the required distance outlined in Section 4.5.6. Stamped envelopes will also be provided by the applicant.
 - b. The applicant will post the property according to Section 4.5.7.
9. Step 9: Public Hearing at Planning Commission
- a. The Planning Commission will hear minor applications at a public hearing. The decisions made by the Planning Commission are forwarded to the Board of Trustees for final consideration.
 - b. In order to finalize the schedule of a project, Applicants are required to submit the following items to the Project Planner no later than 15 days prior to the Planning Commission date:
 - (1) Envelopes addressed to each property owner within the required notification area.
 - (2) A letter to the Planning Commission describing the project;
 - (3) Copies of all application plans, and;
 - (4) Electronic versions of each of the above documents.
 - c. After the Applicant has submitted the required materials for Planning Commission, the Project Planner shall prepare a report to be presented to Planning Commission. The report shall include the written summary of any neighborhood meetings, shall report whether the application complies with all applicable standards, shall specify any areas of noncompliance, and shall conclude, when applicable, with a recommendation for application approval, approval with conditions, or denial.
 - d. The report to Planning Commission shall be made available to Planning Commission, the Applicant, and the public at least five (5) days prior to the public meeting on the application.
 - e. The Planning Commission's decision will be forwarded to the Board of Trustees and shall be documented in a Planning Commission Resolution.
10. Step 10: Public Meeting at Board of Trustees
- a. The Board of Trustees will hear minor applications at a public meeting following the public hearing held before the Planning Commission.

- b. Following the Planning Commission meeting, the Applicant is required to submit the following items to the Project Planner no later than 10 days prior to the Board of Trustees date:
 - (1) Copies of all application plans reduced to eleven by seventeen inches (11" x 17") and;
 - (2) Electronic versions of each of the above documents.
 - (3) Each legal description related to the application in an electronic version of Microsoft Word.
- c. The Project Planner shall prepare a report to be presented to Board of Trustees that includes the written summary of any neighborhood meetings, shall report whether the application complies with all applicable standards, shall specify any areas of noncompliance, shall convey the decision of the Planning Commission, and shall conclude with a recommendation for application approval, approval with conditions, or denial.
- d. The report to the Board of Trustees shall be made available to the Board of Trustees, the Applicant, and the public at least five (5) days prior to the public meeting on the application.
- e. Should the Board of Trustees deny the application, appeals may be made to the Board of Adjustments following Section 4.7.7 of this Code.

Sec. 4.9 Specific Requirements and Review Standards for Minor Applications

- 1. Final plat
 - a. Final plat purpose. The purpose of the final plat is to complete the subdivision of land consistent with the technical standards.
 - b. In addition to the submittal requirements found in Appendix A, an application for a final plat must include:
 - (1) A written description confirming that the final plat conforms with the preliminary plat. In addition, the description shall address how the proposed development conforms with the community design principles and development standards.
 - (2) Complete engineering plans and specifications:
 - (a) Construction plans and profiles shall be prepared by a registered professional engineer licensed in the State of Colorado, shall be twenty-four (24) inches high by thirty-six (36) inches wide and provide the following information:
 - i. The horizontal to vertical scales shall be chosen to best depict the aspects of the design.
 - ii. Minimum horizontal scale: 1" = 100'.
 - iii. Minimum vertical scale: 1" = 10'.
 - iv. The typical road geometric and structural cross-section is to be shown on each plan sheet.

- v. The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginning of curves and end of curves, intersections, structures, angles, curb lines, cross pans, traffic control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii, and all other features to enable construction in accordance with approved standards and standard engineering practices. Construction plans shall also include water, sewer, sanitary sewer and any other utilities such as irrigation ditches. (Note: The developer/owner is responsible for coordinating with the appropriate dry utility companies (i.e., gas, electric, telephone, cable).
 - vi. The profiles shall include ground lines, grade lines of curb and gutter or centerline of street elevation at the point of intersection of vertical curves, intersections and other critical points, structures and all other features required to enable construction in accordance with approved standards.
 - vii. Signature blocks for all utility providers unless otherwise provided in agreement form.
- (b) Structure details. Sufficient data shall be given to construction of major structures and road appurtenances such as bridges, culverts, gutters, drives, walks, cross pans, etc.; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc.
 - (c) Sewage collection and water supply distribution plans, profiles and specifications. The plans, profiles and specifications shall be prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
 - (d) Final drainage plans and reports. Based upon the approved preliminary drainage plan, a final report is to be submitted in accordance with either the *Weld County Tri-Area Sanitation District's Standard Requirements for Storm Drainage Design Criteria and Construction Standards* or the *I-25 Corridor Master Drainage Plan Godding Hollow and Tri-Town Basins South Weld County, Colorado* as determined at the initial preapplication conference. The plan and report must provide:
 - i. Cross-sections of each water carrier showing high water elevations for one-hundred-year runoff and adjacent features that may be affected thereby.
 - ii. Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Weld County, ditch companies).
 - iii. Supporting calculations for runoffs, times of concentration, flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
 - iv. Erosion control plans, when required, to be submitted as a result of preliminary plan review.

- (e) Final grading plan. The final grading plan shall be twenty-four (24) inches high by thirty-six (36) inches wide and illustrate existing and proposed contours and lot and block grading details (per FHA requirements if FHA insured).
 - (f) Soils reports. The soils reports shall detail special foundation requirements (shall be submitted after overlot grading is complete) and pavement design (may be submitted prior to a building permit).
 - (g) Final street lighting plan. A final street lighting plan shall be prepared in conjunction with United Power and the Town. The plan must specify the number, kind and approximate location of street lights.
- (3) Special documents (as needed):
- (a) Special improvement district documents.
 - (b) Special agreements (as may be required by the Town).
 - (c) Work in right-of-way permit (from Town).
 - (d) Floodplain use permit (from Town).
 - (e) Grading permit (from Town).
 - (f) State highway utility permit (from Colorado Department of Transportation).
 - (g) State highway access permit (from Colorado Department of Transportation).
 - (h) Construction dewatering permit (from Colorado Department of Public Health and Environment).
 - (i) 404 permit (from Army Corps of Engineers).
 - (j) Air pollution emission notice (APEN) (from Colorado Department of Public Health and Environment).
 - (k) Work in ditch right-of-way permit (from individual ditch companies).
 - (l) Rare species occurrence survey (from U.S. Fish and Wildlife Service).
 - (m) Memorandum of agreement for public improvements (MOAPI). This agreement assures construction of the required improvements. This document shall be signed by the developer and the Town; the signatures shall be notarized; and the document shall be recorded by the Town Clerk with the County Clerk and Recorder.
 - i. An MOAPI shall include a list of all agreed-upon improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements, which shall be in an amount not less than 100% of the total estimated cost of the improvements, and any other provisions or conditions deemed necessary by the Board of Trustees to ensure that all improvements will be completed in a timely, quality, and cost-effective manner. An MOAPI shall run with and be a burden upon the land described in the agreement.
 - (n) General warranty deed or special warranty deed with title policy. This deed conveys to the Town all public lands other than streets shown on the plat or, in lieu of a deed, cash amount to be determined by the Town.

- (o) Improvements guarantee. Cash, certified check or a letter of credit issued by a bank in Colorado or other acceptable collateral in an amount not less than 100% of the total estimated cost of the improvements or as otherwise stipulated to in the MOAPI or other agreements or contracts, posted in favor of the Town and as otherwise deemed sufficient to assure construction of public improvements for either part or all of a particular plat at the discretion of the Board of Trustees. Partial releases of a guarantee may be considered when development is phased and an initial phase has received final acceptance, subject to retentions during the warranty period.
 - (p) Approved adjudication of water rights and a plan of augmentation (if applicable).
 - (q) Protective covenants, homeowners' association (HOA) documents, articles of incorporation for HOA and architectural design guidelines finalized and in a form for recording. If there are open space areas to remain in private ownership within the subdivision, the HOA documents must have in place a mechanism which will assure that maintenance will be funded in perpetuity.
 - (r) FEMA-approved applications (i.e., conditional letter of map revisions [CLOMR] or letter of map revisions [LOMR]).
 - (s) Documentation showing who will own and maintain the open space (refer to Section 2.13(c)(6) for details).
- (4) "Clean" final plat for addressing.
- c. Final plat review criteria. The Town shall use the following criteria to evaluate the Applicant's request:
- (1) The final plat conforms with the approved preliminary plat and incorporates recommended changes, modifications, and conditions attached to the approval of the preliminary plat unless otherwise approved by the Board of Trustees.
 - (2) The development will substantially comply with the community design principles and development standards as set forth in Article 2 of this Code.
 - (3) All applicable technical standards have been met.
 - (4) An updated title commitment dated current to within fourteen (14) days of the Board of Trustees meeting.
- d. Improvements required
- (1) The following improvements will be constructed following approval of the final plat:
 - (a) Road grading and surfacing
 - (b) Curbs
 - (c) Street lights
 - (d) Sidewalks
 - (e) Sanitary sewer collection system
 - (f) Storm sewers or storm drainage system, as required
 - (g) Potable water distribution, including fire hydrants
 - (h) Utility distribution system for public parks and open space
 - (i) Street signs at all street intersections
 - (j) Permanent reference monuments and monument boxes
 - (k) Underground telephone, electricity and gas lines

- (l) Berm or fence along major arterial and collector streets
 - (m) Required landscaping
 - (n) Street trees
 - (o) Underdrains
 - (p) Required floodway improvements
 - (q) Required irrigation ditch improvements.
- (2) Inspection of improvements.
- (a) Inspection of improvements. As improvements are completed, the subdivider shall apply to the Board of Trustees for inspection of improvements. Upon inspection and approval, the Board of Trustees shall notify the subdivider that there is a two (2) year guarantee period, which is the greater of either two (2) years or two (2) winter seasons, before release of funds. If the Board of Trustees or respective special district determines that any of the required improvements are not constructed in compliance with specifications, it shall furnish to the subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such compliance. If the Board of Trustees determines that the subdivider will not construct any or all of the improvements or remedy the deficiencies in accordance with all the specifications, the Board of Trustees may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements or remedy deficiencies in accordance with the specifications.
- (3) Time for completion.
- (a) The required time for the completion of all required improvements shall be two (2) years from the recording date of the final map or plat. However, the Board of Trustees may extend such time for completion upon request from the subdivider. Upon completion of such improvements within the required time and approval thereof by the Board of Trustees, the Town shall cause the cash or letter of credit to be released within thirty (30) days of the Town's acceptance of such improvements and receipt of the required as-built drawings. When such improvements are not completed within the required time, the Town may cause the proceeds of the cash or letter of credit to be used to complete the required improvements.
- (4) Warranty.

- (a) All workmanship and materials for all required improvements shall be warranted by the subdivider for a period of two (2) years from the date of the Town's acceptance of the required improvement; provided that any defects which are the result of public abuse, misuse or acts of God are not the responsibility of said subdivider. For perimeter fences that abut collector and arterial streets, the warranty period shall be two (2) years. The total amount of the guarantee shall be in an amount not less than one hundred percent (100%) of the total estimated cost, including labor and materials of all public improvements to be constructed. The Town shall not release the improvement guarantee until the Town has granted final acceptance of the improvements. Partial releases of a guarantee may be considered when development is phased and a phase has received final acceptance; however, at all times during the improvement warranty period, the Town shall retain an amount not less than ten percent (10%) of the guarantee under this section. In the event that any other provision of this Code or specifications adopted pursuant thereto requires a warranty of workmanship or materials for a different period of time, that provision requiring the longer period shall govern. The inspection or acceptance of any required improvement by the Town shall not relieve the subdivider of his or her warranty of workmanship and materials.

2. Final development plan

- a. Final development plan purpose. The purpose of a final development plan is to define the standards associated with a specific planned unit development overlay district.
- b. In addition to the submittal requirements found in Appendix A, an application for a final development plan must include a written description as part of the general development information which includes:
 - (1) List all subdivision regulation exceptions being proposed for the development plan and explain why such exceptions are justified.
 - (2) If any modifications and/or restrictions are requested in the final development plan that were not identified in the preliminary development plan, identify the underlying zoning district for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the district. Provide a comparison between the proposed final development plan to the elements and standards of the underlying zone district as contained in this Code. If any conditional uses are requested, explain how the conditional use review criteria (refer to Section 4.9.4) will be addressed.
 - (3) Identify and explain the benefits which will be provided by the development plan to offset the impact of the modifications requested. The proposed benefits must offset the proposed modifications.
 - (4) Explain how the proposed development plan will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Describe buffering techniques which serve to achieve such compatibility.

- (5) Draft copies of owners' association documents (covenants, conditions, restrictions and any architectural design guidelines) that provide an acceptable program for the continuing maintenance of open space, recreational areas, walkways, and private streets within the PUD; that detail the type of organizational structure responsible for such ongoing maintenance; and that provide for architectural review based on the design guidelines.
 - (6) Provide any additional relevant information which the Town may deem necessary.
- c. Final development plan review criteria. The Town shall use the following criteria to evaluate the Applicant's request:
- (1) The final development plan is substantially consistent with the preliminary development plan as approved by the Board of Trustees.
 - (2) All preliminary development plan conditions of approval have been adequately addressed on the final development plan.
- d. Standards not open to modification. The following community design principles and development standards are considered absolute minimum standards and are not open to modification through an exception process:
- (1) Road standard (cross-section) for local streets with attached sidewalk;
 - (2) Requirement of one (1) street tree of two-inch caliper for each forty (40) feet of frontage on both sides of the street (except for rural roads and alleys);
 - (3) Dedication of the full width of right-of-way for all platted streets; and
 - (4) Provision of handicap parking spaces.
- e. Compliance with the final development plan. The Board of Trustees may initiate the process to repeal the ordinance establishing the development plan if:
- (1) The project for which the development plan was established is not carried out pursuant to the approved final development plan; provided, however, that the Board of Trustees may approve appropriate modifications to the final development plan from time to time prior to completion of the proposed development; or
 - (2) Building activity for the area affected by the development plan has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Board of Trustees.

3. Minor subdivision

- a. Generally. The minor subdivision process may be used in lieu of the preliminary and final plat processes (See 4.7.4 and Section 4.9.1 above) if the following conditions apply and the Planning Director determines that the subdivision is compatible with and will not have adverse impacts on surrounding properties:
- (1) Ten (10) or fewer new lots or blocks are created;
 - (2) Variances or subdivision exceptions are not required or requested;
 - (3) There is no public right-of-way dedication required or requested; and
 - (4) The property for which the minor subdivision is requested was not the subject of a minor subdivision approval during the prior one (1) year.
- b. Minor subdivision purpose. The purpose of a minor subdivision is to complete the subdivision of land consistent with the Town's technical standards.

- c. Minor subdivision review criteria. The Town shall use the following criteria to evaluate the Applicant's request:
 - (1) A minor subdivision shall meet the review criteria applicable to preliminary plat stated in Section 4.7.4.

4. Conditional use

- a. Conditional use purpose. In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Specific conditional uses for each zone district are listed in the Table of Permitted Uses by Zoning District found in Section 3.4 of this Land Use Code.
- b. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to ensure compatibility and harmonious development between conditional uses, surrounding properties and the Town at large. Conditional uses may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.
- c. Conditional use review criteria. The Town shall use the following criteria to evaluate the Applicant's request:
 - (1) The conditional use will satisfy all applicable provisions of this Code and subdivision regulations unless a variance is being requested.
 - (2) The conditional use will conform with or further the goals, policies and strategies set forth in the Comprehensive Plan.
 - (3) The conditional use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
 - (4) The conditional use will not substantially alter the basic character of the district in which it is located or jeopardize the development or redevelopment potential of the district.
 - (5) The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
 - (6) Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts:
 - (a) Traffic;
 - (b) Activity levels;
 - (c) Light;

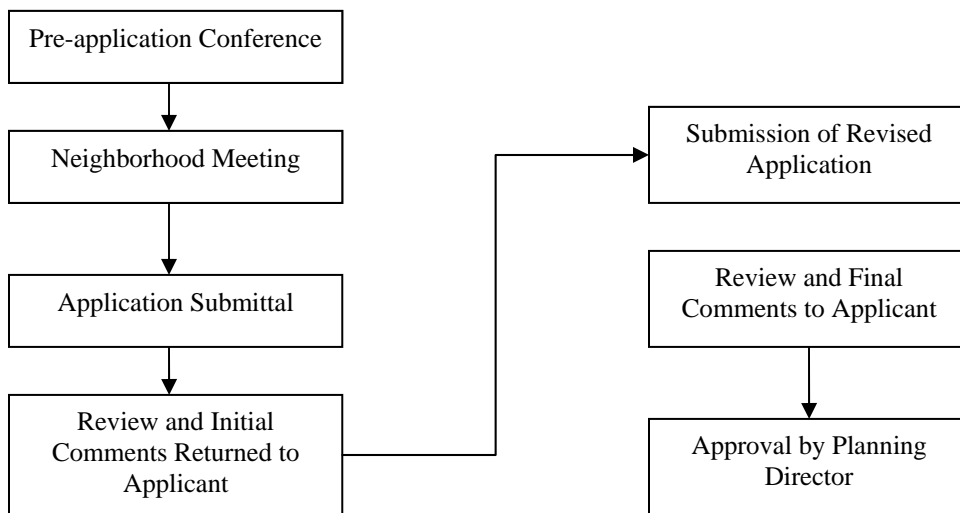
- (d) Noise;
 - (e) Odor;
 - (f) Building type, style and scale;
 - (g) Hours of operation;
 - (h) Dust; and
 - (i) Erosion control.
- (7) The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained.
- d. In addition to the submittal requirements for a Conditional Use, applications for Telecommunications facilities must also submit the following information:
- (1) The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable;
 - (2) An explanation of the need for such a facility, operating plan and proposed coverage area;
 - (3) If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility;
 - (4) A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC);
 - (5) Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields;
 - (6) Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts;
 - (7) Affirmation that the facility will not interfere with any public safety frequencies servicing the Town and its residents;
 - (8) Affirmation that, if approved, the applicant and surface owner will make the facility available, on a reasonable basis, to other service providers; and
 - (9) An explanation of compatibility with the Comprehensive Plan.
- e. The following standards apply to Telecommunications facilities in addition to the standards for a Conditional Use:
- (1) Abandonment. At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six (6) months shall be disassembled within twelve (12) months of the last use.
 - (2) Penalty. Any person who constructs, installs or uses, or who causes to be constructed, installed or used, any wireless telecommunications facility in violation of any provision of this Article or of the conditions and requirement of the conditional use permit, may be punished as provided in Article 6 of this Code. Each day of unlawful operation constitutes a separate violation.

- (3) Civil action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used or any land is or is proposed to be used in violation of any provision of this Article or the conditions and requirements of the commercial mobile radio service facility special use permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

Sec. 4.10 Administrative Application Review Procedure

All applications classified as administrative applications are outlined in Section 4.4.3. The following development review procedure shall apply to all administrative applications, unless variations or exceptions to the core procedure are expressly allowed in the particular application requirements stated in Section 4.11.

Core Administrative Application Development Review Procedure



1. Step 1: Pre-Application Conference
 - a. A pre-application conference is mandatory for all administrative development applications. The Planning Director may grant a waiver from the requirement for a pre-application conference upon finding that the on-site and off-site impacts of the proposed development are likely to be minimal.
 - b. See Section 4.5.1 for applicable requirement for the pre-application conference, including attendance, scheduling, Planning Director review and recommendations, and effect of pre-application conference.
2. Step 2: Neighborhood Meetings

- a. **Applicability.** A neighborhood meeting is required only for administrative applications that the Planning Director determines may have adverse neighborhood impacts, including but not limited to traffic, noise, visual, or environmental impacts. The Planning Director shall determine the applicability of this subsection at the pre-application conference.
 - b. **Applicable Requirements.** See Section 4.5.2 for applicable requirements for a neighborhood meeting, including timing and number, notice, attendance, and Applicant's written summary.
3. **Step 3: Application Submittal**
 - a. The Applicant shall submit a complete application and all applicable submittal material in one package to the Planning Department. The submittal will be reviewed for completeness as outlined in Section 4.5.3 and Appendix A.
 - b. After the initial application is determined to be complete, the Applicant shall not make any changes to the development application or any accompanying plans or information, unless changes or additional information is requested.
4. **Step 4: Notice of Application and posting of property**
 - a. Notices of application must be sent out upon certification that an application is complete. The applicant will supply the names and addresses for the surrounding property owners according to the required distance outlined in Section 4.5.6. Stamped envelopes will also be provided by the applicant.
 - b. The applicant will post the property according to Section 4.5.7.
5. **Step 5: Review and Initial Comments to Applicant**
 - a. After receipt of a complete application, the plans will be distributed to Town Staff and applicable referral agencies. The application will be reviewed for technical accuracy, compliance with this Land Use Code, and other relevant regulations and ordinances, and shall evaluate the proposal according to adopted review criteria.

Referral agencies will be given twenty-one (21) days to provide comments to the Project Planner. Comments provided by referral agencies will be communicated to the applicant in a formal Development Review report.
6. **Step 6: Submission of Revised Application**
 - a. After the initial comments are received by the Applicant, the Applicant shall revise the development application as necessary to respond to all comments in the initial report and shall submit the revised application package to the Planning Department. The Applicant is encouraged to work with the staff and agencies to resolve any concerns. Revised plans shall reflect all resolutions. Any remaining issues should be documented and communicated to both Town Staff and applicable agencies. The revised application shall include the Applicant's response to each comment raised by Town Staff and referral agencies.

- b. The Applicant shall submit the revised application and related materials to the Planning Department within one hundred twenty (120) days. If a revised application is not received within this time frame, the Applicant will be notified that the lack of submittal constitutes a withdrawn project unless a revised application is received within an additional sixty (60) days. If an application is not submitted and no extension has been approved by the Planning Director in the allowed one hundred eighty (180), the application shall be considered withdrawn. Any resubmittal of the application will be treated as a new application.

7. Step 7: Review and Final Comments

- a. After an application has been submitted for second review, the project will be reviewed by Town Staff and referral agencies with outstanding comments in the initial comments. The timeframe for this review will range from ten to twenty-one (10 – 21) days as determined by the Project Planner, based on the level of complexity of the outstanding comments.
- b. Written comments will be submitted by the Project Planner and review agencies. Comments will include a final recommendation on the application.
- c. A final report compiling all comments will be provided to the Applicant. The report will outline any comments left to be addressed. Any comments left unaddressed will become recommended conditions of approval.

8. Step 8: Final decision by Planning Director

- a. The Planning Director shall take final action and either approve, approve with conditions, or deny the application. The Planning Director shall notify the Applicant of the final action and advise the Applicant, as applicable, that the Applicant must satisfy or accept all conditions of approval prior to issuance of a building permit.
- b. Referral to Planning Commission and Board of Trustees
 - (1) The Planning Director may refer all decision making to the Planning Commission and Board of Trustees as outlined in Section 4.5.4.

Sec. 4.11 Specific Requirements and Review Standards for Administrative Applications

1. Site plan

- a. Site plan purpose. The site plan is needed in order to apply for a building permit for all multi-family, commercial and industrial developments. The site plan shows how the lot will be developed so that the Town can make sure that the site design will be in compliance with all Town regulations.
- b. In addition to the submittal requirements found in Appendix A, an application for a site plan must include:
 - (1) Finished floor elevations for all structures.
 - (2) Footprint of all proposed structures, noting the distance to the property lines.
 - (3) Square footage of the proposed building.
 - (4) Proposed structure height.

- (5) For commercial and industrial uses, the type of activity and number of employees.
 - (6) For multi-family residential, the number of: residential units and bedrooms per unit.
- c. Site plan applications may require development agreements to identify the public and private improvements necessary and associated costs. The agreements must meet the requirements identified in Section 4.9.1.b.(3).(m) and (o). The Town Engineer shall determine when an agreement is required.
- d. Site plan review criteria. The site plan must meet the following review criteria:
- (1) All of the information required on a site plan is shown.
 - (2) The lot size and lot dimensions are consistent with what is shown on the approved final plat.
 - (3) No buildings or structures infringe on any easements.
 - (4) The proposed site grading is consistent with the requirements of the Weld County Tri-Area Sanitation District's Standard Requirements for Storm Drainage Design Criteria and Construction Standards for the I-25 Corridor Master Drainage Plan Godding Hollow and Tri-Town Basins South Weld County, Colorado.
 - (5) The density and dimensions shown conform with the density and dimensional standards in Section 3.5 of this Code or the approved development plan requirements.
 - (6) The applicable community design principles and development standards have been adequately addressed and the proposed improvements conform with Article 2.
- e. Amendments to approved site plans.
- (1) Minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town staff. Such changes shall not exceed ten percent (10%) of any measurable standard or modify the use, character or density of an approved site plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.
 - (2) Changes to approved site plans that exceed the ten-percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new site plan application. Such amendments shall require Administrative review and approval to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.

2. Subdivision amendment

- a. Generally. The subdivision amendment process may be used in lieu of the preliminary and final plat processes (See 4.7.4 and Section 4.9.1 above) if the following conditions apply and the Planning Director determines that the subdivision is compatible with and will not have adverse impacts on surrounding properties:
- (1) Three (3) or fewer new lots or blocks are created;
 - (2) Variances or subdivision exceptions are not required or requested;

- (3) There is no public right-of-way dedication required or requested; and
 - (4) The property for which the subdivision amendment is requested was not the subject of a minor subdivision or subdivision amendment approval during the prior one (1) year.
- b. Subdivision amendment purpose. The purpose of a subdivision amendment is to complete the subdivision of land consistent with the Town's technical standards.
 - c. Subdivision amendment review criteria. All subdivision amendment plats except Boundary/Lot Line Adjustments shall comply with the following criteria to evaluate the Applicant's request:
 - (1) A subdivision amendment shall meet the review criteria applicable to preliminary plat stated in Section 4.7.4 above.
 - d. The Town shall use the following criteria to evaluate an Applicant's request for a Boundary/Lot Line Adjustment:
 - (1) The adjustment does not increase the number of lots or parcels or create new lots or parcels.
 - (2) The adjustment affects only two adjacent lots.
 - (3) The adjustment does not affect a recorded easement without the prior approval of the easement holder.
 - (4) The adjustment is no greater than ten (10) feet from the originally platted boundary or lot line.
 - (5) Any adjacent rights-of-way will not be changed.
 - (6) The adjustment will not create any nonconformities, or increase the degree of nonconformity of any existing structure or use.
 - (7) The adjustment complies with all other applicable requirements of this Land Use Code and all other applicable regulations and requirements.
 - (8) No more than one boundary/lot line adjustment is allowed within any one (1) year time period for the same properties.
 - (9) The adjustment is referenced to the platted lot line in the newly written deeds for both lots (submitted with the application).
 - (10) All affected property owners agree to the adjustment in writing.
 - (11) After the adjustment, both lots and the improvements thereon satisfy all applicable provisions of this Land Use Code and applicable building or fire codes, including but not limited to lot size and width, setbacks, and fire separation, unless otherwise waived, modified, or varied under the provision of this Land Use Code.

3. Plot plan

- a. Plot plan purpose. The plot plan is needed in order to apply for a building permit for any building or structure constructed on a single-family home or duplex lot. The plot plan shows where the proposed building or structure will be located on the lot so that the Town can make sure that the proposed location will be in compliance with all Town regulations.
- b. In addition to the submittal requirements found in Appendix A, an application for a plot plan must include:
 - (1) Square footage of the proposed building.
 - (2) Distance from the proposed building/s to all lot lines.

- (3) Elevations of:
 - (a) The finished floor for the house and garage.
 - (b) The ground ten (10) feet away from the house and garage.
 - (c) The lot corners.
 - (4) Height of all proposed buildings.
 - (5) Street trees (right-of-way landscaping).
- c. Plot plan review criteria. The plot plan must meet the following review criteria:
- (1) All of the information needed on a plot plan is shown.
 - (2) The lot size and lot dimensions are consistent with what is shown on the approved final plat.
 - (3) No buildings or structures infringe on any easements.
 - (4) The proposed site grading is consistent with FHA standards (if insured by FHA); otherwise it shall meet the Town's approval.
 - (5) The density and dimensions shown conform with the density and dimensional standards (Section 3.5) or the approved development plan requirements.
 - (6) The applicable community design principles and development standards (Article 2) have been adequately addressed.

4. Minor modification

- a. Applicability. The Planning Director may grant minor modifications to approved site plans, site-specific development plans, final development plans, and final subdivision plats, and from specified development standards as stated in Article 3.
- b. Review procedures.
 - (1) Concurrent review for minor modifications from development standards. Requests for minor modifications from specified development standards may be submitted concurrently with any other required development applications, such as applications for preliminary subdivision plat approvals, conditional uses or site plans. In such cases, the Planning Director shall review and take action on the minor modification during the review of the primary development action.
 - (2) All other requests for minor modifications. All other requests for minor modifications shall follow the following procedure:
 - (a) Preapplication process.
 - (b) Neighborhood meeting (at Planning Director's discretion).
 - (c) Notify adjacent property owners of proposal via United States mail.
 - (d) Submit application/completeness determination.
 - (e) Planning Director and (optional) DRC preliminary review.
 - (f) (Optional) DRC response meeting.
 - (g) Submission of revised application in response to DRC review.
 - (h) DRC review and final recommendation.
 - (i) Planning Director final action.
- c. Limitations on authority.

- (1) Minor modifications to approved site plans, final PUD development plans, final plats, and other approved final plans. The Planning Director may grant minor modifications to an approved final site or development plan, including final subdivision plats. In no circumstance, however, shall the Planning Director approve a plan or plat modification that results in:
 - (a) An increase in building height;
 - (b) An increase in the floor area ratio (FAR) by greater than ten percent (10%) as calculated on a total project basis;
 - (c) A change in permitted uses or mix of uses if the proposed uses are more intensive than the approved uses;
 - (d) An increase in overall project density; or
 - (e) A change that would require resubdivision or a boundary/lot line adjustment.
- (2) Minor modifications from development standards. The Planning Director may grant minor modifications up to a maximum of twenty percent (20%) from the following development standards:
 - (a) Minimum lot area requirements.
 - (b) Building setback requirements.
 - (c) Driveway access standards.
 - (d) Tree/vegetation protection standards.
 - (e) River/stream corridor, riparian area, or wetland setback requirements.
 - (f) Landscaping/buffer yard standards.
 - (g) Amount of off-street parking space requirements.
 - (h) Any other numeric standard stated in Article 2 (Community Design Principles and Development Standards), Article 3 (Zoning), Article 4 (Subdivision Regulations) or Article 7 (Signs), except for building height standards.
- (3) Minor modifications for alternative compliance. The Planning Director shall have the authority to grant minor modifications to any design standard stated in Article 2 (Community Design Principles and Development Standards) or Article 3 (Zoning) of this Land Use Code in order to encourage the implementation of alternative or innovative practices that provide equivalent benefits to the public.

- (4) Minor modifications to ensure compliance with the Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
 - (a) Generally. The Planning Director shall have the authority to grant minor modifications to any use or development standard stated in Article 2 (Community Design Principles and Development Standards) or Article 3 (Zoning) of this Land Use Code in order to eliminate a substantial burden on religious exercise as guaranteed by RLUIPA, as amended.
 - (b) Limitations. In no circumstance shall the Planning Director approve a modification that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zoning district where Article 3 (Zoning) prohibits such use or accessory use/structure/activity.

- d. Review criteria. The Planning Director may approve minor modifications only upon finding that:
 - (1) The modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Amendments Act; or
 - (2) The modification is necessary to eliminate a substantial burden on religious exercise as guaranteed by the federal RLUIPA of 2000; or
 - (3) All of the following criteria have been met:
 - (a) The requested modification is generally consistent with the Frederick Comprehensive Plan and is consistent with the stated purposes of this Land Use Code;
 - (b) As applicable, the requested modification is consistent with the approved final plan or plat;
 - (c) The requested modification eliminates an unnecessary inconvenience or practical difficulty to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
 - (d) Any adverse impacts resulting from the minor modification will be mitigated to the maximum extent practical; and
 - (e) The requested minor modification is either:
 - i. Of a technical nature and is required to compensate for some practical difficulty or unusual aspect of the site or the proposed development that is not shared by landowners in general; or
 - ii. An alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard sought to be modified.

Practical difficulties. In determining *practical difficulty*, the Planning Director shall consider and apply the factors stated in Section 4.7.7.e of the Land Use Code (review criteria for variances).

- e. Effect of approval.
 - (1) Minor modifications to approved plans/plats. Modifications to an approved site plan, site specific development plan, final development plan or final subdivision plat shall be noted on a revised plat or plan, which shall be plainly marked as *amended* and submitted to the Planning Director. The Planning Director shall note the terms of the approved minor modification directly on the amended plat or plan, and the Planning Director's signature and the date of approval shall be affixed. As applicable, such amended plan/plat shall be recorded within thirty (30) days of the Planning Director's approval of the modification.
 - (2) Noted on pending application. The Planning Director shall specify any approved minor modifications from general development or zoning district standards and justifications for such modification on the pending development application for which the modifications were sought. Alternately, the Planning Director may include such final determination, in writing, as part of the required DRC report.
 - (3) As applicable, an approved minor modification shall be valid for the same time frame as the development approval with which it was joined or for the same time frame as the originally approved final plat or plan.
 - (4) In all other cases, an approved minor modification shall be valid for six (6) months, during which time the applicant shall commence substantial construction. If these actions are not taken within the six-month time period, the minor modification approval shall automatically lapse and be null and void.

5. Special use

- a. Review procedures.
 - (1) If the applicant has paid the inspection fees as outlined in Article 9 of the Land Use Code, an application for special use shall follow the core procedure for review of administrative applications, stated in Section 4.10.
 - (2) If the applicant has not paid the inspection fees as outlined in Article 9 of the Land Use Code, an application for special use shall follow the core procedure for review of administrative applications, stated in Section 4.10, however, the application must be presented to the Board of Trustees for approval.
- b. In addition to the submittal requirements found in Appendix A, an application for a special use must meet the requirements for application as outlined in Article 9 of the Land Use Code.

6. Temporary use

- a. General. Operation or establishment of a temporary use or structure shall be conditioned upon full prior compliance with the provisions stated in this subsection.
- b. Review procedure. All applications for temporary use shall follow the core procedure for review of administrative applications, stated in Section 4.10, except for the following modifications:
 - (1) Permit required. An approved temporary use shall be issued a Temporary Use Permit that shall include the duration of the approval and shall include or reference all conditions of approval.

- (2) Conditions of approval. In approving a temporary use, the Planning Director may impose conditions including but not limited to control of nuisance factors (e.g., glare, noise, smoke, dust), provision of security and safety measures, and limitations on hours of operation, storage, and parking, provided such conditions are reasonably necessary to:
 - (a) Satisfy the review criteria of this subsection and the specific purposes of the zoning district in which the temporary use will be located, or to be consistent with the Comprehensive Plan;
 - (b) Protect the public health, safety, and general welfare; or
 - (c) Ensure operation and maintenance of the temporary use in a manner compatible with existing uses on adjoining properties and in the surrounding area.
- c. The application shall include a written statement describing the proposal and addressing the following points:
- (1) Traffic. The proposed site is adequately served by streets having sufficient width and improvements to accommodate the type and quantity of traffic that such temporary use will or could reasonably generate;
 - (2) Parking. Adequate parking is available to accommodate vehicular traffic to be reasonably generated by such use will be available either on-site or at alternate locations.
 - (3) Screening. On-site screening will be required as necessary to mitigate impacts of the temporary use on adjacent properties or rights-of-way.
 - (4) Landscaping. Landscaping, including weed removal, may be required based on the Planning Director's determination of need, ultimate use, existing character, and existing surrounding uses.
 - (5) On-site lighting. All on-site lighting shall be installed and maintained in order to prevent glare subject to the outdoor lighting provision of Section 2.21.
 - (6) Trash removal. The owner of a temporary use shall be responsible for the storage and removal of all trash, refuse, and debris occurring on the site. Furthermore, all trash storage areas shall be screened from view of adjacent rights-of-way and the site must be maintained in a clean and safe manner.
- d. Review criteria. An application for a temporary use or structure shall demonstrate compliance with the general standards stated in this subsection and all of the following criteria:
- (1) The proposed site for the temporary use or structure is adequate in size and shape to accommodate the temporary use.
 - (2) The proposed temporary use will be located, operated, and maintained in a manner consistent with the Comprehensive Plan and the provisions of the Land Use Code.
 - (3) The operation of the requested use at the proposed location and within the time period specified will not create adverse impacts on surrounding properties or neighborhoods.
 - (4) To the maximum extent feasible, site design, including but not limited to location of parking, structures, and lighting, shall assure compatibility with surrounding uses.
 - (5) Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site.

- (6) The Applicant or operator shall be responsible for obtaining any other required permits, such as health department permits.
 - (7) Permanent alterations to the site are prohibited.
- e. Time limits on permits. Temporary use permits shall be valid for a specified period of time.
- (1) The Applicant may request an extension beyond the approved time limit by requesting the extension prior to the expiration of the initial time limit. The request for an extension shall be scheduled for review in the same fashion as the original application, as specified in this subsection.
 - (a) Review Criteria. The following review criteria shall be used to evaluate requests for extensions of approved temporary uses:
 - i. The Applicant, owner, and operator have complied with the conditions of the original approval and permit.
 - ii. The temporary use has operated and will continue to operate in a way that satisfies all the review criteria stated in Section 4.11.6.c above; and
 - iii. The Applicant demonstrates a need for the requested extension.
 - (2) Conditions to approval of an extension of time. The extension may be conditioned upon design or physical alterations to the temporary use that the Planning Director determines are necessary to achieve a greater degree of compatibility with surrounding uses and properties.
- f. Building Code and other compliance – Certificate of Occupancy. All temporary uses shall be required to comply with all applicable provisions of this Land Use Code and the building, fire, and other codes adopted by the Town, and shall obtain a Certificate of Occupancy, as applicable, prior to initiation of any temporary use.