

ARTICLE III. DEVELOPMENT REVIEW

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DIVISION 1: GENERAL PROCEDURES

A. GENERAL PROVISIONS

Sec. 21-3100. Review Period

- (1) **Extensions.** Any time period set forth in this land development code for the review of and/or final action on an application may be extended by the city if it determines that the projected size, complexity, anticipated impacts or other factors associated with the proposed development clearly support such extension of time.
- (2) **Delay.** Failure of the city to take action on an application within a time-frame established by this land development code, regardless of whether an extension was granted, shall not constitute an approval, or a recommendation for approval, of any application.

Sec. 21-3105. Director Referrals

The director may refer to the planning commission for review and to city council for a decision any application to which the director is assigned responsibility as the decision maker under the terms of this article. In such event, written notice of the referral shall be sent to the applicant and the matter shall be set for planning commission and city council consideration as soon as practical, but in no event shall the city be required to hold a special meeting nor deviate from standard policies for placing matters upon the planning commission's and city council's agendas. The city council's decision shall be based upon the relevant approval criteria.

Sec. 21-3110. Neighborhood Meetings

- (1) **Purpose.** Neighborhood meetings are intended to inform neighboring property owners of the details of a proposed development, how the developer intends to meet the standards contained in this land development code, and to receive feedback on the proposal early in the review process.
- (2) **Applicability.** The city may require a neighborhood meeting when it appears that an application may have significant neighborhood impacts, including without limitation, impacts related to: traffic; provision of public services such as safety, schools, or parks; compatibility of building design or scale; or operational compatibility such as hours of operation, noise, dust, or glare.
- (3) **Number of Meetings.** When required, there shall be at least one neighborhood meeting held. Such meeting shall be held prior to submittal

of a formal application; prior to any administrative action on the application; or a minimum of 21 days prior to the first public hearing on the application. The director may require additional neighborhood meetings due to the proposed development's mix of uses, density, complexity, potential for impacts, or the need of off-site public improvements created by the development.

- (4) **Attendance Required.** If a neighborhood meeting is required, the applicant or applicant's representative shall attend and conduct the meeting.
- (5) **Scheduling and Location.** The applicant shall be responsible for scheduling the neighborhood meeting at a time when a department staff member can attend, shall coordinate the neighborhood meeting, and shall retain an independent facilitator if needed. All neighborhood meetings shall be convened at a place in the vicinity of the proposed development.

Sec. 21-3115. Public Hearings

If required, a public hearing shall be held only after notice is given in accordance with section 21-3180. A hearing may be continued if the projected size, complexity, anticipated impacts, volume of testimony or evidence to consider, lack of necessary information, or other factors associated with the proposed development clearly support such extension of time. A hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this land development code, provided that the continued hearing is set for a date within 90 days of the original hearing and the date and time of such hearing is announced at the time of continuance.

Sec. 21-3120. Burden of Proof

The burden of demonstrating that the applicable approval criteria have been met shall be on the applicant.

Sec. 21-3125. Decisions

- (1) **Limitation.** The city may not recommend or approve a greater density of development, a more intensive use, a greater variance, or a more intensive zoning classification than what was indicated in the public notice; however, a lower density of development, a lesser variance, or a less intensive use may be recommended or approved.
- (2) **Conditional Approvals Permitted.** The city shall be authorized to impose any conditions on a development approval that it deems necessary to carry out the general purpose and intent of this land development code or the comprehensive plan including, without limitation, requiring the applicant to submit to and pay for ongoing compliance

oversight. However, any condition that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.

- (3) **Written Decisions Required.** All non-administrative decisions shall be based on written findings of fact related to the relevant standards or criteria set forth in this land development code.
- (4) **Majority Vote Required.** Except as specifically provided for otherwise in this land development code, a decision on an application that is before a decision making body shall be made by a majority of the members of such body present and voting at the hearing or meeting.

Sec. 21-3130. Approvals

- (1) **Limitation.** An approval shall only authorize the development described in the approved application. Any development that occurs beyond what is described in the application is prohibited and shall be deemed a violation of this land development code and subject to the enforcement provisions set forth in article X.
- (2) **Lapse.**
 - (a) An approval shall lapse if the applicant fails to take necessary action on the approval within the time-frame set forth in table III-2. Unless specifically provided otherwise, the time frames established in table III-2 may be extended by the original decision maker under the following conditions:
 - (i) An extension request is filed on the form established by the director, with all required exhibits and fees, prior to the applicable lapse-of-approval deadline; and
 - (ii) This land development code does not expressly prohibit the requested extension.
 - (b) If a request to extend the time frame is denied, the requesting party may appeal the denial to the person or body who would have heard an appeal of the original approval (the one being extended).

Sec. 21-3135. Applications After Denial

If an application is denied, the same or substantially similar request shall not be heard by the city for a period of one year from the date of denial unless the denial

explicitly states that an earlier re-application will be considered. Notwithstanding the foregoing, an applicant may submit a revised application that adequately addresses all of the stated reasons for denial at any time. Such revised application shall be treated as a new application for purposes of review and scheduling.

Sec. 21-3140. Building Permit Acceptance

No application for a building permit for properties undergoing any required review will be accepted by the city until the review is complete unless acceptance is specifically authorized by the director.

Sec. 21-3145. Development Agreements

Where a development agreement is required by the city, the city attorney shall be authorized to negotiate such agreement on behalf of the city. Once approved by the city, the city may require that the agreement be recorded in the county clerk and recorder's office and may further require that the developer pay the recording costs.

B. APPLICATIONS

Sec. 21-3150. Authority to File Application

Unless specifically provided otherwise, an application for review or approval under this land development code shall be filed by the owner of the property on which the development will occur or the owner's duly authorized agent. In those instances where the application need not be filed by the property owner, the property owner's express authorization for the filing shall be required.

Sec. 21-3155. Pre-Application Meeting

- (1) **Purpose.** The purpose of the pre-application meeting is to inform the applicant of development procedures, submittal requirements, standards, alternatives, and other pertinent matters before the applicant finalizes the development proposal.
- (2) **Applicability.** Unless specifically provided otherwise, pre-application meetings are voluntary and conducted at the request of an applicant.
- (3) **Scheduling.** Applicants shall be responsible for scheduling pre-application meetings with city staff when they are desired.
- (4) **Non-Binding.** Any opinions expressed during pre-application meetings are informational only and do not represent a commitment on behalf of the city regarding the acceptability or approval of the development proposal. Materials submitted for review at a pre-application meeting shall not

constitute an application for development for purposes of C.R.S. §24-68-101 et. seq.

Sec. 21-3160. Forms, Materials, and Fees

- (1) **Forms and Filing.** Applications shall be filed with the department on forms approved by the director and shall be accompanied by all required fees and any materials deemed necessary by the director to carry out the provisions of this land development code or applicable law, including without limitation the submission of performance bonds. In some circumstances, the city manager, the board of adjustment, the planning commission, and/or the city council may require information or material in addition to that requested by the director, including technical studies and/or a payment to the city to fund the cost of a technical study. The additional information may be required at the time of application or at any time during the review and approval process. No application will be considered complete until all fees have been paid and all requested information has been provided to the city.
- (2) **Fees.** Fees shall be established by resolution of the city council. Application fees shall be non-refundable, absent an express provision to the contrary, but may be waived for governmental or quasi-governmental applicants.
- (3) **Incomplete Applications.** No application shall be considered which is not complete in every detail. Incomplete applications may be returned to the applicant for completion or correction without any further action. The city shall not be responsible for the failure of a permit to be issued or an approval granted due to incomplete or defective applications.

Sec. 21-3165. Simultaneous Processing

- (1) **Request and Approval.** At the election of the applicant and with the concurrence of the city, applications for different types of development approvals may be processed simultaneously to expedite the review and processing time for a project.
- (2) **Review Period.** When two or more applications are processed simultaneously and have differing time frames for review and/or approval, the longest time frame shall apply to all applications.

Sec. 21-3170. Inactive Applications

In the event that an applicant, having been notified that additional information or corrected materials are required, fails to submit such information or materials within 60 days of the request, or an applicant fails to attend any scheduled meeting or public hearing, the director may notify the applicant that the

application is considered inactive and unless corrective action is taken within 30 days, the application shall be considered withdrawn.

Sec. 21-3175. Withdrawal of an Application

Except for inactive applications, only the applicant or property owner may withdraw an application. After an application is withdrawn, no further action on the application shall take place. To re-initiate review, the applicant shall resubmit the application, which in all respects shall be treated as a new application for purposes of review, scheduling, and fees.

C. NOTICE

Sec. 21-3180. Required Notice

Notice shall be provided in accordance with the following table:

Table III-1. Notice Requirement

Application	Mail	Publication	Placard
Annexations		X	
Appeals	X	X	X
Comprehensive Plan Amendments	X	X	X
Conditional Use Permits	X	X	X
Consolidation Plats	X ²	X ²	X ²
Final Plats	X ²	X ²	X ²
Height Exceptions	X	X	X
PUD Zone Documents / Zone Document Amendments	X ¹	X	X ¹
Rezoning or Zone Changes	X ¹	X	X ¹
Use-by-Permits	X	X	X
Vacations – Active rights-of-way or easements only	X	X	X
Variances	X	X	X
Vested Property Rights / Site Specific Development Plans	X	X	X

¹ Placards and mailed notification shall not be required when an amendment to the official zoning map is initiated by the city and affects multiple owners.

² When a plat is initiated by the city and affects city-owned land, no notice shall be required.

Sec. 21-3185. Notice Types

- (1) **Mail.** Unless modified by the director, mailed notice shall be sent to all the owners of property adjacent to or within 300 feet of the property that is the subject of the application. Notice shall be mailed at least seven days prior to the public hearing or, where no hearing is required, administrative action. When adjacent property is owned by a subdivision or condominium association, notification may be sent to the management

company or board of such association and to the owners of the individual units. The city shall be responsible for mailing the notice unless it specifically delegates this responsibility to the applicant in writing. If delegated, the city may require the applicant to submit evidence to document compliance with the requirements of this section.

- (2) **Placards.** The city, or the applicant if designated by the director, shall place signs on the property which is the subject of the application at least seven days prior to the public hearing or action. The director shall designate the number and location of the signs based upon the complexity of the project, the geographic reach of potential adverse impacts, the extent of neighborhood compatibility issues, and similar factors. In no event shall the number of signs posted be fewer than one.
- (a) The applicant shall ensure signs remain in place during the period leading up to the hearing or administrative action and shall check the posted signs each day. Missing or damaged signs shall be replaced by the applicant within 48 hours of discovery or by the close of the next business day, whichever period is longer. When requested by the city, the applicant shall sign a statement affirming that the above-stated procedures were followed. Failure to comply with the required posting procedure or failure to file the posting compliance log with the city upon request may result in the public hearing being rescheduled. Any delays resulting from the rescheduling shall not prejudice the city regarding the city's compliance with required times to act as set forth in this land development code.
- (b) Applicants shall remove all signs no later than one week after the public hearing or action.
- (3) **Publication.** Notice shall be placed in a newspaper of general circulation in the city at least six days prior to any public hearing or action by the planning commission or board of adjustment, and at least seven days prior to any public hearing or action by the city council.

Sec. 21-3190. Notice Content

All notice required by table III-1 shall indicate the time and place of the public hearing or action, describe the property involved, the nature of the application, and indicate where additional information may be obtained.

Sec. 21-3195. Sufficiency of Notice

Failure of a person to receive mailed notice shall have no effect on any subsequent hearing or action. Similarly, minor defects in any type of notice shall not invalidate the notice or any proceedings related to the notice provided a bona

vide attempt has been made to comply with applicable notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing and the location of the subject property shall be strictly construed. If questions arise at a public hearing regarding the adequacy of notice, a formal finding regarding whether there was substantial compliance with the notice requirements of this land development code shall be made before proceeding with the hearing.

DIVISION 2: REVIEW

Sec. 21-3200. Required Review

Applications shall be reviewed in accordance with the processes and standards set forth in this land development code. Table III-2, Development Review Table, establishes the review steps required for specific forms of site development.

Table III-2. Development Review Table

APPLICATION TYPES	REQUIRED REVIEWS					REFERENCE	LAPSE PERIOD
	Staff	DRT	PC	CC	BOA		
Administrative Applications							
Building and Sign Permits	R	R ¹			H ³	§ 21-3210	6 months
Concept Plans	R	R				§ 21-3211	n/a
Development Plans	R	R	H ¹	H ¹		§ 21-3212	2 years
Floodplain Development Permits	R	R ²			H ¹	§ 21-3213	2 years
Grading Permits	R				H ¹	§21-3214	30 days
Minor Modifications	R	R ¹			H ¹	§ 21-3215	1 year
Temporary Use Permits	R	R ¹			H ¹	§ 21-3216	§ 21-3216
Applications Requiring BOA Approval							
Height Exceptions	R	R			H	§ 21-3220	3 years
Uses-by-Permit	R	R			H	§ 21-3221	2 years
Variances	R	R			H	§ 21-3222	1 year
Applications Requiring Approval by City Council							
Annexations	R	R	H ¹	H		Division III-	n/a
Comprehensive Plan Amendments	R	R	H	H		§ 21-2110	n/a
Conditional Use Permits	R	R	H	H		§ 21-3230	2 years
Model and Elevation Review	R	R ¹	R ¹	R ¹		§ 21-3231	90 days
Rezoning or Zone Changes	R	R	H	H		§ 21-3232	n/a
Vacation of Rights-of-Way	R	R	H	H		§ 21-3233	60 days
Vested Property Right/Site Specific Development Plans	R	R	H	H		§ 21-3234	3 years
Developments with Multiple Steps							
Planned Unit Development (PUD)							
Concept Schematics	R	R	H ¹			§ 21-3250	n/a
Zone Documents/Amendments	R	R	H	H		§ 21-3251	n/a
Development Permits	R	R	H ¹	H ¹		§ 21-3252	2 years

APPLICATION TYPES	REQUIRED REVIEWS					REFERENCE	LAPSE PERIOD
	Staff	DRT	PC	CC	BOA		
Subdivisions							
Consolidation Plats	R	R	H ²	H ²		§ 21-3243	60 days
Lot Line Adjustments	R	R ¹	H ¹	H ¹		§ 21-3244	60 days
Plat Corrections and Revisions	R	R ¹	H ¹	H ¹		§ 21-3242	60 days
Sketch Plats	R	R				§ 21-3240	n/a
Final Plats (administrative)	R	R	H ²	H ²		§ 21-3241	60 days
Final Plats (public hearing required)	R	R	H	H		§ 21-3241	60 days

Key	
<i>PC</i>	<i>Planning Commission</i>
<i>CC</i>	<i>City Council</i>
<i>BOA</i>	<i>Board of Adjustment</i>
<i>DRT</i>	<i>Development Review Team</i>
<i>H</i>	<i>Public Hearing</i>
<i>H¹</i>	<i>Hearing upon appeal from staff decision or from director or city council request</i>
<i>H²</i>	<i>Hearing upon appeal from staff decision or by request of director, city council, or public</i>
<i>H³</i>	<i>Hearing on appeal of zoning related matters. Appeals related to building matters are heard by the board of building appeals.</i>
<i>R</i>	<i>Review</i>
<i>R¹</i>	<i>Review requested by director</i>
<i>R²</i>	<i>Review requested by floodplain administrator</i>

A. ADMINISTRATIVE APPLICATIONS

Sec. 21-3210. Building and Sign Permits

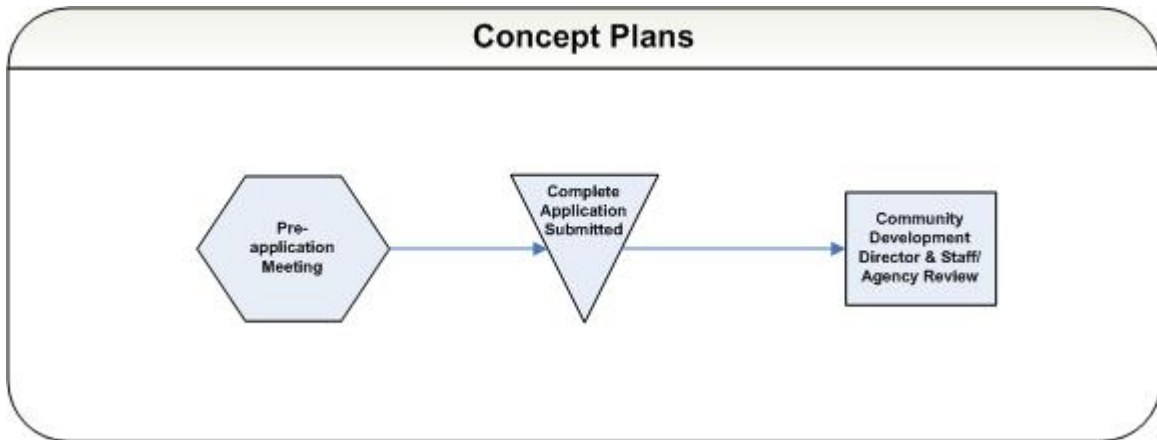
- (1) **Description.** A building permit allows the permit holder to undertake construction of a project; a sign permit allows a person to install and/or display a sign.
- (2) **Requirement.** No person shall erect, construct, enlarge, alter, repair, improve, remove, convert, move, or demolish any building or structure without obtaining a building permit. No person shall erect or display a sign without obtaining a sign permit.
- (3) **Review.** The building official reviews building and sign permit applications and is authorized to approve, approve with conditions, or deny the applications based on the approval criteria outlined below.
- (4) **Approval Criteria.** Permits may be issued if:
 - (a) The proposed development is consistent with any previously approved subdivision plat, development permit, zoning, site plan, or other land use approval;

- (b) The proposed development complies with all applicable city standards and codes, unless a minor modification or a variance has been granted;
 - (c) There is no evidence to suggest that the development violates any federal, state, or local requirements; and
 - (d) All development fees have been paid in full.
- (5) **Appeal.** The denial of a building or sign permit based upon any standard contained in this land development code may be appealed to the board of adjustment. The denial of a building or sign permit for any other reason may be appealed to the building board of appeals.
- (6) **Lapse.** If the work described in a permit is not commenced within six months, or substantially completed within two years of the date the permit was issued, the permit shall automatically lapse and be null and void.
- (7) **Certificate of Occupancy.** No land or building may be changed in use, nor may any new structure, building, or land be occupied or used, unless a certificate of occupancy or completion has been issued by the city. As long as the proposed use, or the structure intended to be occupied, complies with the provisions of this land development code and all other laws and regulations of the city, a certificate of occupancy or completion shall be issued.

Sec. 21-3211. Concept Plans

- (1) **Description.** A concept plan is a generalized land use/site plan for an area proposed to be developed within a non-PUD zone district. It is an optional step that allows early, informal evaluation of a proposed development before substantial expenses have been incurred. A concept plan provides city staff and the applicant an opportunity to determine the development's conformance with the comprehensive plan and the requirements of this land development code, and assists the applicant in the preparation of a development plan.
- (2) **Review.** The director and the DRT review concept plans. The director may provide comment letters to applicants based upon such reviews. Any comments contained in the letter are informational only and shall not represent a commitment on behalf of the city regarding the acceptability of the plan.

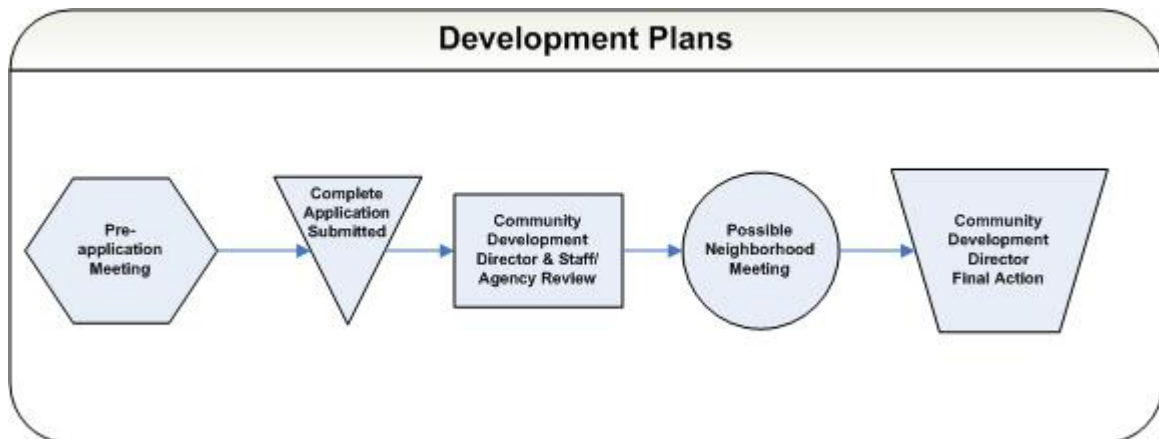
Figure III-1. Concept Plans



Sec. 21-3212. Development Plans

- (1) **Description.** A development plan provides the final details for site design, including landscaping, architecture, civil engineering, and public improvements. The review of such plan is intended to ensure compliance with this land development code.
- (2) **Requirement.** Unless specifically allowed by the director, no building permit shall be issued, and therefore no development, excavation, site preparation, or construction activity, including tree/vegetation removal or grading, shall occur on any property until a development plan has been approved in accordance with this section.
- (3) **Exceptions:** The following development types do not require a development plan, unless specified by the director:
 - (a) Development of single-family dwelling units on individual lots;
 - (b) Development within an approved PUD zone district (PUD zone districts shall follow the PUD development permit process); and
 - (c) The following civic and institutional uses:
 - (i) Forest or range land;
 - (ii) Government lands, parks, and buildings; and
 - (iii) Minor public utilities, as determined by the city.
- (4) **Review.** The director and the DRT review development plans. The director is authorized to approve, approve with conditions, or deny development plans based on the criteria below.

Figure III-2. Development Plans

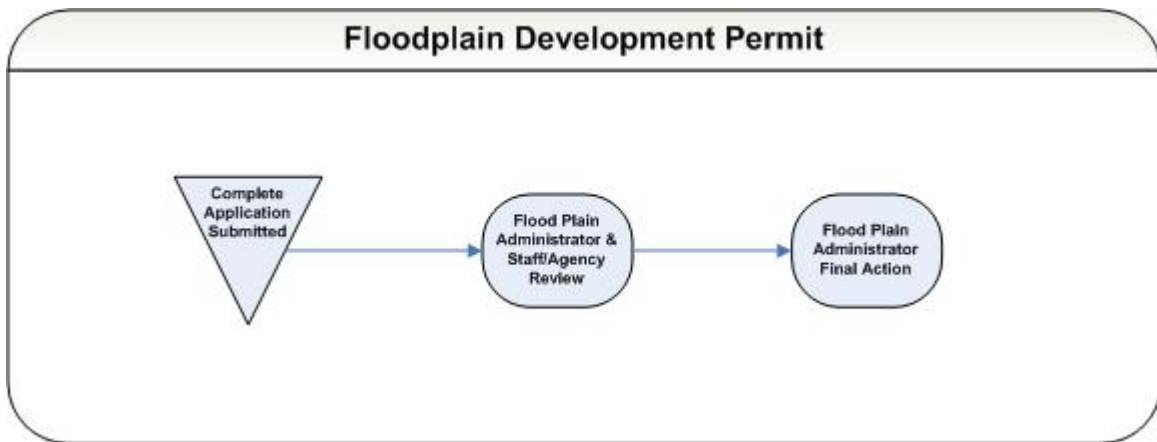


- (5) **Approval Criteria.** A development plan may be approved if it:
- (a) Complies with city standards;
 - (b) Is consistent with any previously approved subdivision plat, rezoning concept plan, or other plans or land use approvals;
 - (c) Provides adequate mitigation for any significant adverse impacts resulting from the use; and
 - (d) Creates a positive precedent for the future cumulative development of the immediate area.

Sec. 21-3213. Floodplain Development Permits

- (1) **Requirement.** No person shall commence any construction, development, or storage of materials within the floodplain overlay district unless a floodplain development permit has been obtained from the city.
- (2) **Review.** The floodplain administrator reviews applications for floodplain development permits to determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard and is authorized to approve, approve with conditions, or deny the application based on the approval criteria below.

Figure III-3. Floodplain Development Permits



- (3) **Approval Criteria.** A floodplain development permit may be approved if the floodplain administrator finds:
- (a) The applicant has obtained all necessary federal, state, and local permits.
 - (b) If alteration or relocation of any watercourse is involved, the applicant has notified all adjacent communities and the Colorado Water Conservation Board of the alteration or relocation and has submitted evidence of such notification to the Federal Emergency Management Agency. The floodplain administrator must also find that the flood-carrying capacity within the altered or relocated portion of the watercourse is not diminished.
 - (c) The danger that materials may be swept onto other lands or cause the injury to others is minimal;
 - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and adjacent upstream and downstream property owners is minimal;
 - (e) The proposed use is compatible with existing and anticipated development as set forth in, or reasonably inferred from, the comprehensive plan;
 - (f) The safety of access to the property in times of flood for ordinary and emergency vehicles is adequate;
 - (g) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems is not excessive;

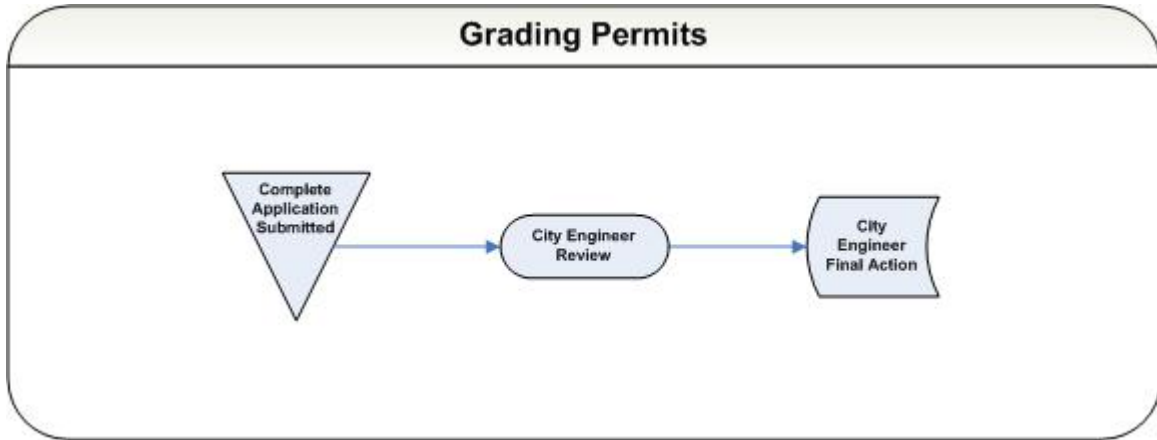
- (h) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site is minimized; and
 - (i) Alternative locations for the proposed use that are not subject to flooding or erosion damage do not exist.
- (4) **Conditional Approval.** The floodplain administrator shall be authorized to impose conditions necessary to ensure compliance with this code including, without limitation, the following:
- (a) Modification of waste disposal and water supply facilities to minimize or eliminate infiltration of flood waters;
 - (c) Limitations on periods of use and operations;
 - (d) Imposition of operational controls, sureties, and deed restrictions;
 - (e) Location and placement of structures and buildings on a site in order to minimize obstructions to flood waters; and
 - (f) Adequate flood proofing measures. The floodplain administrator may require that the applicant submit a plan or document certified by a registered professional engineer or architect testifying that the flood proofing measures are consistent with the regulatory flood elevation and associated flood factors for the particular area.
- (5) **Lapse.** If the work described in any floodplain permit is not commenced within six months, or substantially completed within two years of the date the permit was issued, the permit shall automatically lapse and be null and void.

Sec. 21-3214. Grading Permits

- (1) **Requirement.** Except as provided in paragraph (2) of this section, no person shall modify the elevation or grade of any property by depositing or removing any materials without first obtaining a grading permit.
- (2) **Exceptions.** A grading permit shall not be required for:
- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources;
 - (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use;

- (c) Stockpiling and handling of earth material associated with commercial open pit mining operations licensed under the authority of the Colorado Division of Minerals and Geology.
- (3) **Review.** The city engineer reviews applications for grading permits and is authorized to approve, approve with conditions, or deny such applications based on the approval criteria below.

Figure III-4. Grading Permits



- (4) **Approval Criteria.** A grading permit may be approved if the city engineer finds that:
 - (a) The applicable state permit has been obtained;
 - (b) The grading activities and plans comply with the city’s engineering and construction standards and specifications (ECSS);
 - (c) Erosion and sediment control plans have been submitted and implemented by the applicant and approved by the city engineer;
 - (d) A drainage report, if applicable, has been approved by the city engineer; and
 - (e) If required by the city engineer, the applicant has provided a re-seeding, erosion, and sediment control bond.
- (5) **Conditions for Approval.** By accepting a grading permit, the applicant agrees to comply with the following requirements, in addition to any others which may be imposed by the city:
 - (a) The grading activities shall be undertaken in such a manner as to preserve and enhance the city’s aesthetic character;

- (b) At least 70 percent of the land must be re-vegetated within 12 months of the date of completion of grading or clearing activities;
 - (c) The grading activities shall be performed in accordance with all applicable laws, rules, and regulations pertaining to air, water, and noise pollution;
 - (d) The owner shall schedule construction activities to minimize the total amount of soil exposed, including stockpiles, at any given time in order to reduce the period of accelerated soil erosion; and
 - (e) The area of land disturbance must not be exposed for more than 60 consecutive days without temporary or permanent stabilization, unless the city engineer approves a time extension.
- (6) **Stop Work Orders.** If the site is not in compliance with the approved erosion and sediment control plan or the city’s requirements for erosion and sediment control, the city shall have the authority to issue a stop work order within 24 hours of notification to the owner or developer of non-compliance.

Sec. 21-3215. Minor Modifications

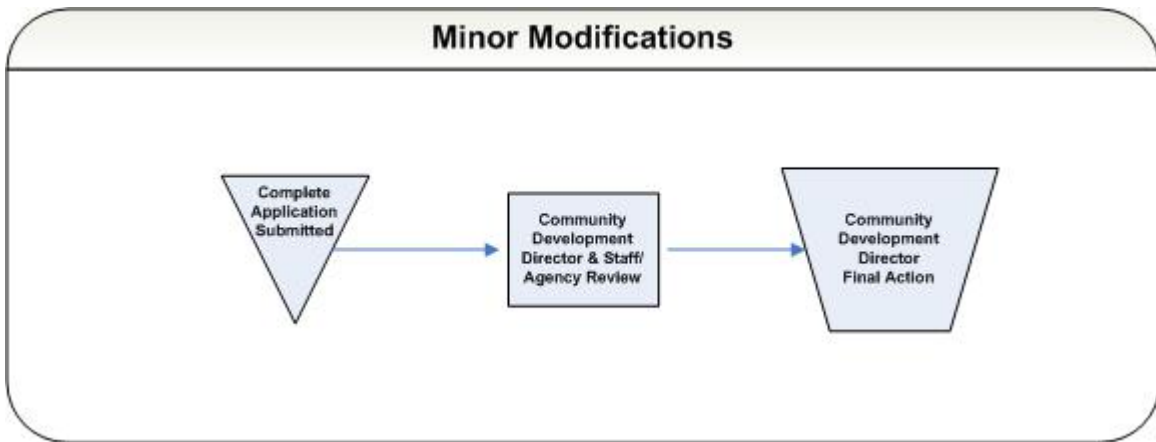
- (1) **Description.** The following deviations from the city’s general standards or approved PUD zone documents are considered minor modifications:
- (a) Up to 20 percent of any minimum or maximum standard;
 - (b) An additional one foot of fence height;
 - (c) Up to 50 percent of the minimum fence setback; or
 - (d) A screen fence instead of an open style fence.

The modification of any design standard set forth in article VII shall not be considered a minor modification and shall be governed by the sections in article VII that discuss alternative compliance.

- (2) **Prohibited Modifications.** In no circumstance shall the director approve a minor modification that is not listed specifically above, or that results in any of the following:
- (a) An increase in permitted maximum development density or intensity;
 - (b) A change in permitted uses or mix of uses;

- (c) An increase in building height over 10 percent; or
 - (d) A decrease in the amount of required common or dedicated open space.
- (3) **Review.** The director reviews minor modification applications and is authorized to approve, approve with conditions, or deny the applications based on the approval criteria outlined below.

Figure III-5. Minor Modifications



- (4) **Approval Criteria.** A minor modification may be approved if the director finds that:
- (a) 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
 - (b) All of the following criteria have been met:
 - (i) The requested modification is consistent with the comprehensive plan and the stated purpose of this land development code;
 - (ii) As applicable, the requested modification is consistent with the final plan or plat;
 - (iii) The requested modification will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public;
 - (iv) Any adverse impacts resulting from the modification will be mitigated to the maximum extent feasible;

- (v) That no additional dwelling units would result from approval of such minor modification; and
- (vi) The requested modification is either:
 - a. 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
 - b. An alternative or innovative practice that reasonably achieves the objective of the existing standard sought to be modified.

(5) **Documentation of Approval.**

- (a) Pending Applications. Approved modifications shall be noted by the director on the relevant pending development application.
- (b) Approved Plans/Plats. Minor modifications to any approved development plan, final PUD development permit, or final plat shall be noted on a revised plan/plat, which shall be plainly marked as amended and submitted by the applicant to the director. The director shall note the terms of the approved modification directly on the amended plan/plat and affix his signature and the date of approval. As applicable, such amended plan/plat shall be recorded.

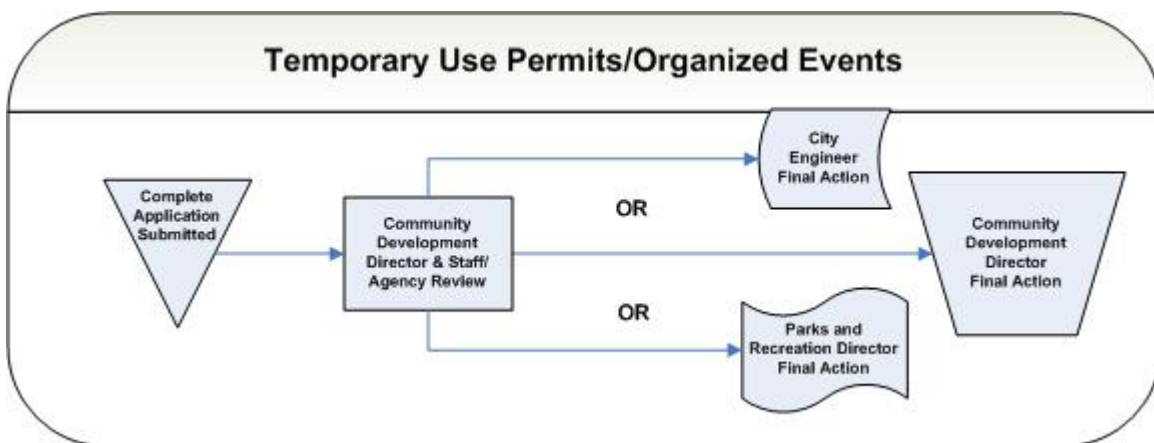
Sec. 21-3216. Temporary Use Permits

- (1) **Description.** Temporary uses are uses of land which are short in duration, such as a mobile office or construction trailer for homebuilders, the temporary display of merchandise for sale, and organized events. table V-4 in article V establishes the temporary uses that require a temporary use permit.
- (2) **Review.** Except as described in paragraphs (a), (b), and (c), the director, and the DRT, if the director deems appropriate, will review applications for temporary use permits. The director is authorized to approve, approve with conditions, or deny the application based upon the approval criteria listed below. A decision on a temporary use permit shall be issued no later than 30 days from the date a completed application is received by the city.
 - (a) Temporary use permits for organized events that are proposed to be held in any public park shall be reviewed by the director in charge of the city's parks. The director in charge of parks is

authorized to approve, approve with conditions, or deny the application based upon the approval criteria listed below.

- (b) Temporary use permits for organized events that are proposed to be held in whole or in part within any public street shall be reviewed by the city engineer. The city engineer is authorized to approve, approve with conditions, or deny the application based upon the approval criteria listed below.
- (c) Temporary use permits for organized events that are proposed to occur within both a public park and a street shall be reviewed by the city engineer or the director of parks, depending on the primary locale of the event. Such person is authorized to approve, approve with conditions, or deny the application based upon the approval criteria listed below.

Figure III-6. Temporary Use Permits



- (3) **Approval Criteria.** A temporary use permit may be approved if:
 - (a) The use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan, this land development code, or any other plan, program, or ordinance adopted by the city;
 - (b) The use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, or public improvements;
 - (c) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;

- (d) The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, and services of the city or its residents. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval of the temporary use permit, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities, and services in sufficient time to serve the proposed use;
 - (e) The director finds that, based upon their history, the applicant, owner, and users are likely to comply with the conditions of the permit and the city’s municipal and land development codes;
 - (f) No permanent alterations to the site are proposed or are reasonably expected to result from the use/event; and
 - (g) There is no evidence to suggest that the use violates any federal, state or local law, regulation, or requirement.
- (4) **Permit Period.** The dates a temporary use may be operated are specified on the permit. It shall be unlawful for any person to operate a temporary use, or to allow a temporary use to be operated on a property, outside the dates and times provided on the temporary use permit.

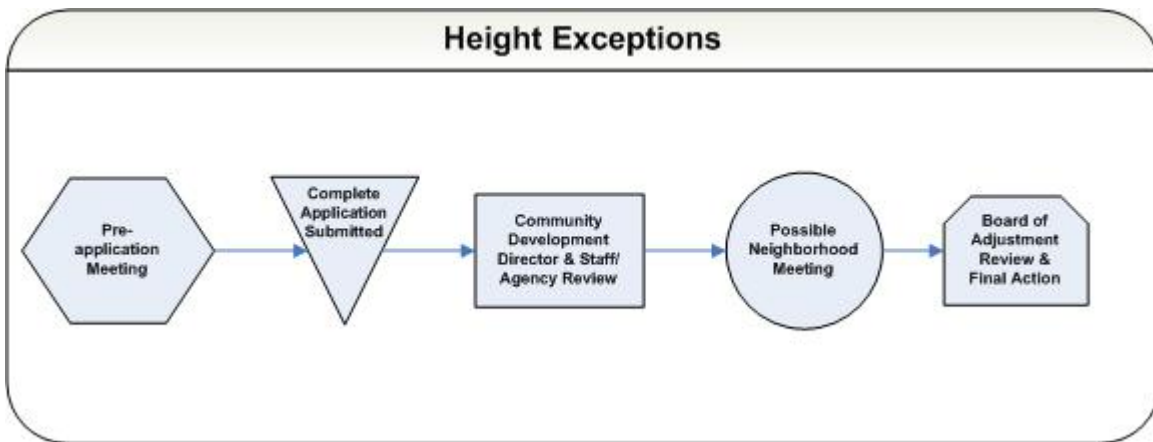
B. APPLICATIONS REQUIRING BOA APPROVAL

Sec. 21-3220. Height Exceptions

- (1) **Requirement.** Except for the specific situations outlined below, no structure or building shall exceed the height limitations provided in this land development code without first obtaining a height exception.
- (a) Telecommunications structures;
 - (b) Structures that exceed the approved height limit on the effective date of this land development code. Any such structure shall not be considered a non-conforming structure due to its height only;
 - (c) Development according to the terms and conditions of a final PUD permit or final subdivision plat that was approved prior to the effective date of this land development code and that has not lapsed in any way. Any structure exceeding the maximum height permitted in a zoning district, but which is developed in accordance with such approved final plan or plat, shall not be considered a non-conforming structure due to its height only;

- (d) Development consistent with the intent, terms, and recommendations of an applicable comprehensive plan, or other special plan adopted by the city, when such plan specifically recommends and anticipates development of structures exceeding the maximum allowed height permitted in a zoning district, but which is developed in accordance with such approved comprehensive plan or other sub-area plan, shall not be considered a non-conforming structure due to its height only.
- (2) **Review.**
- (a) The director and the DRT review height exception applications, and the director provides a report to the board of adjustment regarding an application’s acceptability in light of the approval criteria listed below.
 - (b) Applications are considered by the board of adjustment at a public hearing. After the hearing, the board of adjustment is authorized to approve, approve with conditions, or deny the application based on the approval criteria listed below.

Figure III-7. Height Exceptions



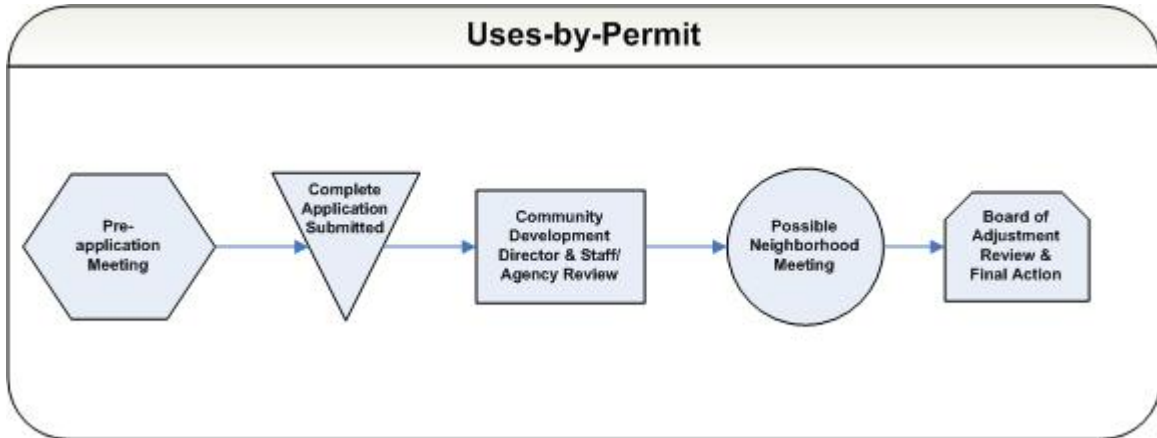
- (3) **Approval Criteria.** The board of adjustment may approve a height exception if:
- (a) The exception provides a demonstrated benefit to the city;
 - (b) The structure and development, if applicable, complies with all other standards not specifically waived by the city;

- (c) The exception would have minimal effect upon adjacent properties with respect to solar access, visual access, and rights of privacy, light, and air;
 - (d) The exception will not interfere with the city's ability to provide public services to the site at the level currently enjoyed by the area, or at adequate levels per existing city policies and regulations;
 - (e) There is no evidence to suggest that the exception would interfere with or complicate emergency services or otherwise impair public safety; and
 - (f) The architecture and character of the proposed building or structure that will exceed the height standards are compatible with existing development on surrounding or adjacent parcels.
- (4) **Lapse.** A height exception shall lapse unless a building permit is issued and construction is substantially completed within three years from the date of approval, unless another time frame is listed as an element of the approval of a related application (such as a conditional use permit). Amendments to a related development plan shall not affect the lapse period unless otherwise provided.

Sec. 21-3221. Uses-by-Permit

- (1) **Description.** Uses-by-permit are used to address land uses which, due to their nature, character, or other circumstances, make the predetermination of permissibility by right, or the detailing of the specific standards, regulations or conditions necessary or appropriate to such uses impractical, but which may be appropriate subject to certain conditions and requirements. A use-by-permit allows a specific use on a specific property by a specific applicant; it does not run with the land. Accordingly, if the permit holder sells the property, a new owner must apply for and obtain a use-by-permit to lawfully operate the use.
- (2) **Review.**
- (a) The director and DRT review use-by-permit applications and the director provides a report to the board of adjustment regarding the application's acceptability in light of the approval criteria listed below.
 - (b) Applications shall be considered by the board of adjustment at a public hearing. After the public hearing, the BOA is authorized to approve, approve with conditions, or deny the application, based on the approval criteria below.

Figure III-7. Uses-by-Permit



- (3) **Approval Criteria.** A use-by-permit application may be approved if:
- (a) The use is in harmony with the general purposes, goals, objectives, and standards of the comprehensive plan, this land development code, or any other plan, program, or ordinance adopted by the city;
 - (b) The use at the proposed location will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program, or ordinance adopted by the city. Such compatibility may be expressed in appearance, architectural scale and features, site design, and the control of any adverse impacts, including noise, dust, odor, lighting, traffic, safety, and impact on property values of the surrounding area;
 - (c) There is a proven community need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and the immediate area of the proposed use;
 - (d) The characteristics of the site are suitable for the use considering size, shape, location, topography, existence of improvements and natural features; and
 - (e) The use at the proposed location will be adequately served by and will not impose an undue burden on any of the improvements, facilities, and services of the city special districts, or its residents. Where any such improvements, facilities, utilities or services are not available or adequate to service the use in the proposed

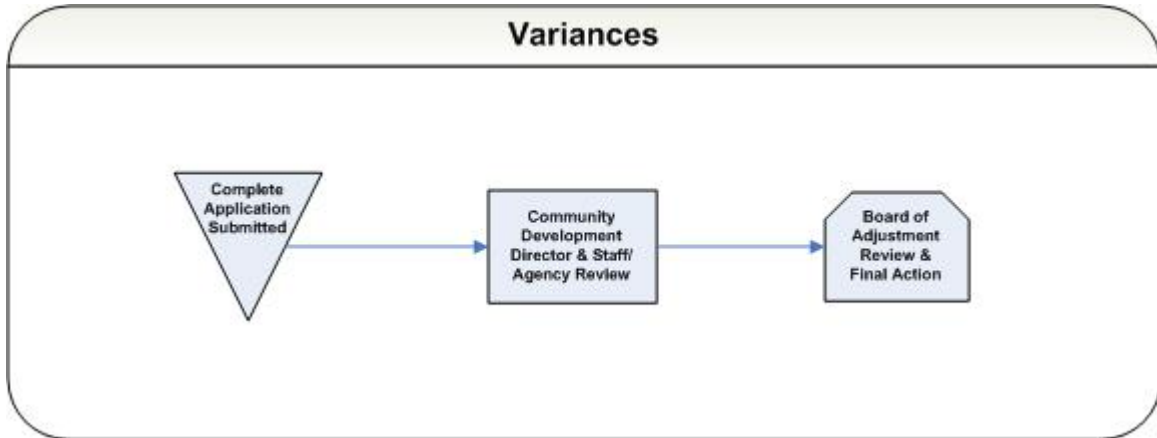
location, the applicant shall, as a part of the application and as a condition of approval of the use-by-permit, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use.

- (4) **Lapse/Abandonment.** If construction of a structure is required, a use-by-permit shall lapse unless a building permit has been issued and construction diligently pursued within two years of approval or at such alternative time specified in the approval. In the event no new structure is required to operate the use, then the use-by-permit shall lapse if the use is not commenced within 180 days of the approval. In addition, a use-by-permit shall automatically lapse and have no further effect if the use is discontinued for 180-consecutive days.

Sec. 21-3222. Variances

- (1) **Description.** Variances are used to address circumstances where the bulk standards of this land development code inflict unnecessary hardship and practical difficulties on a landowner. Variances, other than those from floodplain regulations, are governed by the process outlined in this section. Variances from the floodplain regulations shall follow the procedures and criteria set forth in section 21-3213 (Floodplain Development Permits).
- (2) **Use Variances Prohibited.** The board of adjustment shall not grant a variance to allow a use that is not permitted or that is expressly or impliedly prohibited by the terms of this land development code.
- (3) **Review.**
- (a) The director and DRT, if deemed appropriate, review variance applications and the director provides a report to the board of adjustment analyzing the appropriateness of approving a variance based upon the approval criteria listed below.
- (b) Applications shall be considered by the board of adjustment at a public hearing. After the hearing, the BOA is authorized to approve, approve with conditions, or deny the proposed variance based on the approval criteria listed below.

Figure III-8. Variances



- (4) **Approval Criteria.** A variance may be approved if:
- (a) The physical character of the property, including dimensions, topography or other extraordinary situation or condition of the property, create a situation where the strict enforcement of the standards in this land development code will deprive the property of privileges generally enjoyed by property of the same classification in the same zoning district (hardship);
 - (b) The hardship is not self imposed;
 - (c) The hardship is not shared generally by other properties in the same district and the same vicinity;
 - (d) The variance granted is the minimum needed for the reasonable use of the land, building, or structure; and
 - (e) The variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- (5) **Subdivision Restrictions.** No variance shall be granted reducing the size of lots contained in an existing or proposed subdivision if it will result in an increase in the number of lots beyond the number permitted for the total subdivision pursuant to applicable zoning district regulations.
- (6) **Existing Nonconformities Not Grounds for Variances.** The existence of nonconforming uses of neighboring lands, structures, or buildings in the same zoning district, or permitted or nonconforming use of lands, structures, or buildings in other zoning districts, shall not be considered grounds for the issuance of a variance.

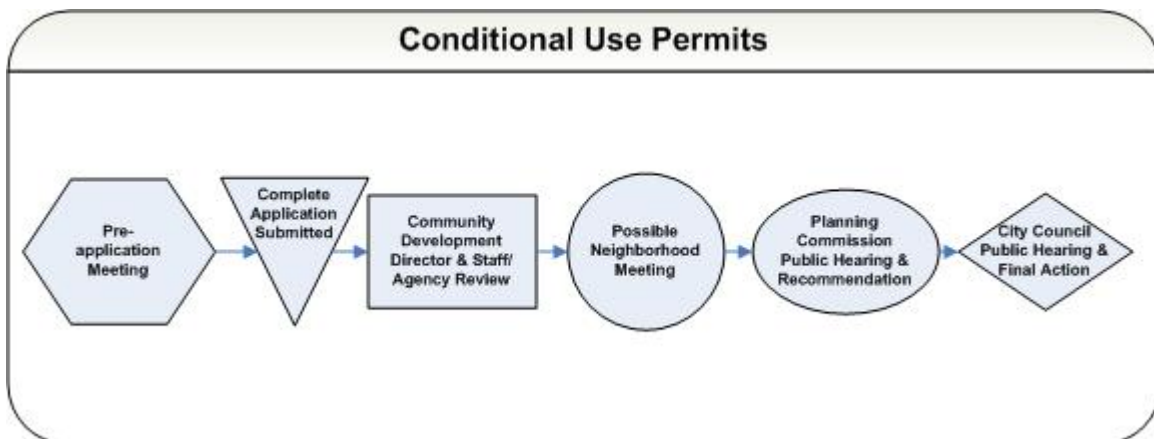
- (7) **Lapse.** A variance shall lapse and have no further effect unless construction has been completed within one year from the date the variance is granted unless an alternative time period is specified in the variance approval.

C. APPLICATIONS REQUIRING CITY COUNCIL APPROVAL

Sec. 21-3230. Conditional Use Permits

- (1) **Description.** A conditional use permit process allows for special consideration of certain specified uses that may or may not be compatible with an area, depending on the specifics of the particular project.
- (2) **Review.**
- (a) The director and the DRT review applications for conditional use permits. The director provides a report to the planning commission regarding the acceptability of the application based upon the approval criteria listed below.
 - (b) Applications for conditional use permits are considered by the planning commission at a public hearing. After the close of the public hearing, the planning commission will make a recommendation to the city council that the application be approved, approved with conditions, or denied.
 - (c) After receiving the recommendation of the planning commission, the city council considers the application at a public hearing. After the hearing, the city council is authorized to approve, approve with conditions, or deny the application based on the approval criteria below.

Figure III-9. Conditional Use Permits



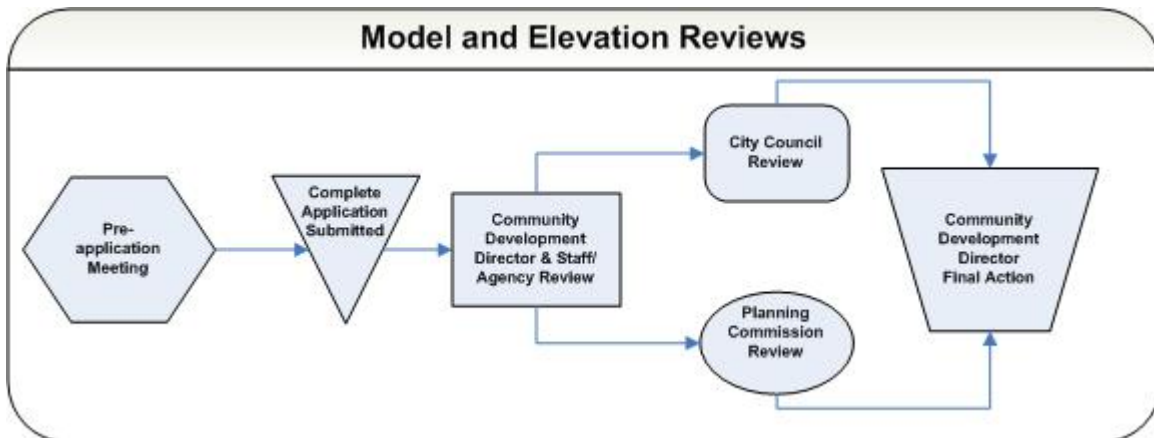
- (3) **Approval Criteria.** A conditional use permit may be granted if:
- (a) The proposed use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan, this land development code, and all other plans, programs, or ordinances adopted by the city;
 - (b) The proposed use:
 - (i) Will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city; or
 - (ii) Any adverse effect has been or will be mitigated to the maximum extent feasible;
 - (c) There is a community need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and the immediate area of the proposed use;
 - (d) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;
 - (e) Sufficient landscaping and screening will be utilized to insure harmony for adjoining uses;
 - (f) The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;
 - (g) The applicant has provided adequate assurances of continuing maintenance; and
 - (h) There is no evidence to suggest that the use violates any federal, state, or local requirements.

- (4) **Lapse.** If the conditional use is not commenced within the lapse period contained in table III-2 or, if after it is commenced, it is abandoned or discontinued for a period of 180 days or more, then the conditional use permit shall automatically lapse and be null and void.
- (5) **Transferability.** A conditional use permit is not attached to and does not run with the property for which it is granted. Any change in tenancy, ownership, or management shall require the issuance of a new conditional use permit or modification to an existing approved permit.
- (6) **Recording.** The city may record a conditional use permit in the Adams County Clerk and Recorder's Office. The city may require the applicant to pay for all recording fees.

Sec. 21-3231. Model and Elevation Reviews

- (1) **Requirement.** No builder shall build the same model or the same elevation within a model on multiple lots unless the city has approved such model or elevation in accordance with the provisions of this section. In addition, the director shall have the authority to require the review of any elevation for any residential or non-residential development, regardless of the number intended to be used by the developer/builder, if the director determines that the proposed elevation does not meet the approval criteria below.
- (2) **Review.** The director and, if requested by the director, the DRT, planning commission, or city council, will review the proposed model(s) and/or elevation(s). When requested, the planning commission or city council may review the application during a study session to provide feedback. The director is authorized to approve, approve with conditions, or deny the application based upon the approval criteria listed below.

Figure III-10. Model and Elevation Reviews



- (3) **Approval Criteria.** A proposed model or elevation may be approved if it:
 - (a) Complies with all applicable city standards;
 - (b) Is consistent with any previously approved subdivision plat, rezoning concept plan, or other precedent plan or land use approval;
 - (c) Is in harmony and compatible with adjacent development in the area; and
 - (d) Creates a positive precedent for the future cumulative development of the immediate area.
- (4) **Lapse.** Failure of an applicant to apply for a building permit and commence construction within the applicable lapse period shall automatically render the approval null and void.

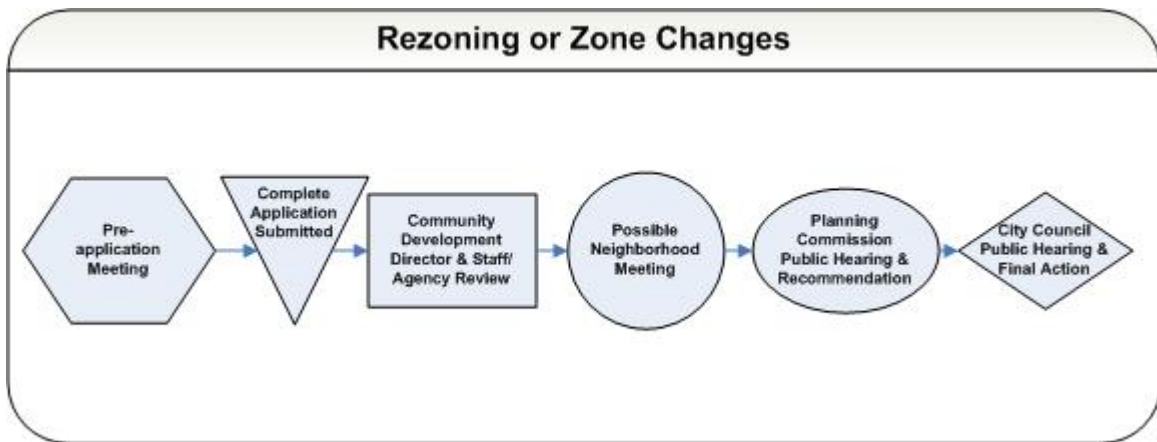
Sec. 21-3232. Rezoning or Zone Changes

- (1) **Description.** A rezoning or zone change is any change in the city's official zoning map. A zone change includes zoning amendments, zoning condition review, and zoning condition amendments. For the purposes of this section, both rezoning and zone changes will be referred to collectively as "zone changes." Applications for zone changes, other than those resulting from the PUD process, which is governed by section 21-3251 below, shall be reviewed in accordance with this section. A zone change should not be used when a minor modification, variance, or conditional use can achieve the same result.
- (2) **Initiation.** A zone change may be initiated by the city or by the holder of any interest in the property that is the subject of the zone change request.
- (3) **Development Plan Required.** Unless initiated by the city or determined unnecessary by the director, every application for zone change shall be accompanied by a development plan, except for the following:
 - (a) A request to rezone to an R-1 or R-2 zoning district; or
 - (b) A request to rezone to an AG district used only for residential activities and accessory agricultural uses.
- (4) **Review.**
 - (a) The director and DRT will review applications for zone changes and the director will provide a report to the planning commission

analyzing the application in light of the approval criteria listed below.

- (b) Applications for zone changes are considered by the planning commission at a public hearing. After the public hearing, the planning commission will make a recommendation to city council based on the approval criteria below.
- (c) After receiving the recommendation of the planning commission, the city council will consider the application at a public hearing. After the hearing, the city council is authorized to approve, approve with conditions, or deny the application based on the approval criteria below.

Figure III-11. Rezoning or Zone Changes



- (5) **Approval Criteria.** An application may be approved if:
 - (a) The zone change corrects a technical mistake on the part of the city in classifying a parcel within a specific zoning district; or
 - (b) The zone change meets all of the following:
 - (i) The proposed zone district and allowed uses are consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city;
 - (ii) The proposed zone district and allowed uses are compatible with proposed development, surrounding land uses and the natural environment;
 - (iii) The proposed zone district will have, or future development can provide, efficient and adequate provision of public

services, including but not limited to, water, sewerage, streets, and drainage;

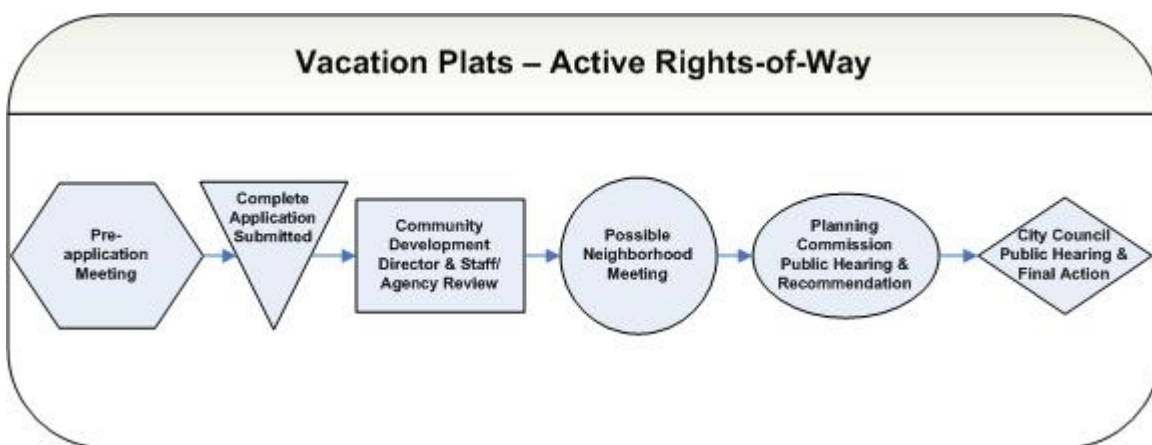
- (iv) The proposed zone district will have, or future development can provide, efficient and adequate provision of public uses including but not limited to, parks, schools, and open space;
 - (v) There is a community need for the zoning district in the proposed location, given need to provide or maintain a proper mix of uses both within the city and the immediate area of the proposed use; and
 - (vi) The area for which zone change is requested has changed or is changing to such a degree that it is in the public interest to allow a new use or density.
- (6) **Adoption by Ordinance.** A zone change affects the official zoning map and shall be approved in the form of an ordinance.

Sec. 21-3233. Vacation of Rights of Way

- (1) **Description.** A vacation plat is used to eliminate public rights-of-way or utility easements that are no longer needed for public improvements. The vacation of easements and rights-of-way may be shown either on a final plat, on a separate vacation plat, or by a separate ordinance as determined by this section or when not specifically stated, by the director. This section shall apply to all requests to vacate all rights, interests, or title of the city in and to any right-of-way, access easements, or other public easements located within the corporate limits of the city.
- (2) **Review.**
- (a) Active rights-of-way and easements.
 - (i) All active right-of-way vacations and easements shall be contained on a vacation plat and accompanied by a separate subdivision/consolidation plat.
 - (ii) The director and DRT will review vacation applications and the director will create a report analyzing the acceptability of the application in light of the approval criteria outlined below.
 - (iii) Vacation applications are reviewed by the planning commission during a public hearing. After the hearing, the planning commission will make a recommendation to the city council based on the approval criteria below.

- (iv) After receiving the director's report and the planning commission's recommendation, the city council will consider the application at a public hearing. After the hearing, the city council is authorized to approve, approve with conditions or deny the application. The city council may approve the vacation in whole or part (i.e., vacate only a portion of the area under consideration).
- (b) All other vacation requests. The director reviews and has the authority to approve, approve with conditions or deny vacation applications that do not involve active rights-of-way and easements.

Figure III-12. Vacation of Rights-of-Way



- (3) **Approval Criteria.** A vacation application may be approved if:
 - (a) Active rights-of-way and easements.
 - (i) The vacation is consistent with the comprehensive plan and any other applicable city-approved plan;
 - (ii) The land to be vacated is no longer necessary for the public use and convenience;
 - (iii) The vacation will not create any landlocked properties;
 - (iv) The vacation will not render access to any parcel unreasonable or economically prohibitive;
 - (v) The vacation will not reduce the quality of public services to any parcel of land; and
 - (vi) A separate subdivision plat to replat the vacated area into a larger, usable piece of land has been submitted.

- (b) All Other Vacation Applications. Vacation applications that do not involve active rights-of-way or active easements may be approved by the director if no person objects to the proposal and the director determines that the right-of-way or easement is not currently or foreseeably necessary for the public health, safety, or welfare. In the event of an objection, the process and approval criteria associated with the vacation of active rights-of-way and easements shall apply.

- (4) **Zoning.** Notwithstanding any provision in this section to the contrary, the zoning on any property vacated by the city shall be changed without further action as of the effective date of the vacation to that zoning of the property to which ownership of the vacated property attaches as a result of such vacation by the city.

- (5) **Title.** Title to the lands included within a street right-of-way or so much thereof as may be vacated shall vest in accordance with the provisions of state law unless specifically provided for in the vacating ordinance or plat. Title in all other lands shall vest in accordance with the document affecting the vacation.

- (6) **Recording.** The city will record all relevant vacation documents, including any vacation resolution, with the Adams County Clerk and Recorder's Office and the city may require the applicant to pay all recording costs.

Sec. 21-3234. Vested Property Rights/Site Specific Development Plans

- (1) **Description.** Pursuant to state law, approval of a site specific development plan, as that term is defined in article XI of this land development code, creates a vested property right. The effective date of the approval of the site specific development plan, the duration of the vested property right, and the effect such vested property right has relative to future ordinances adopted by the city are governed by state law.

- (2) **Review.**
 - (a) The director and DRT review site specific development applications and the director will create a report analyzing the acceptability of the application in light of the approval criteria outlined below.

 - (b) Site specific development applications are reviewed by the planning commission during a public hearing. After the hearing, the planning commission will make a recommendation to the city council based on the approval criteria below.

 - (c) After receiving the director's report and the planning commission's recommendation, the city council will consider the application at a

public hearing. After the hearing, the city council is authorized to approve, approve with conditions or deny the application based upon the approval criteria below.

Figure III-13. Vested Property Rights/Site Specific Development Plans



- (3) **Approval Criteria.** The approval criteria for site specific development plans shall be the same as the underlying application. For example, a PUD development permit shall be approved in accordance with section 21-3252; a final subdivision plat in accordance with section 21-3241; and a development plan in accordance with section 21-3212. In addition, however, in order to approve a site specific development plan, the city must find that the grant of vested rights is reasonable given the proposed development’s benefits to the surroundings properties, surrounding community, or the city in general.
- (4) **Vested Property Right Notice.** Upon approval of a site specific development plan, the city shall publish notice of such approval in compliance with state law.
- (5) **Plat or Plan Language Required.** Each site specific development plan shall contain the following language: “Approval of this plan or plat creates a vested property right with all privileges and subject to all conditions provided by state statute. The effective date is [insert date].”
- (6) **Waiver.** A landowner may waive a vested property right by separate agreement, which shall be recorded in Adams County. Unless otherwise agreed to by the city, any landowner requesting annexation to the city shall waive, in writing, any pre-existing vested property rights as a condition of such annexation.
- (7) **Other Provisions Unaffected.** Approval of a site specific development plan shall not constitute an exemption from or waiver of any other

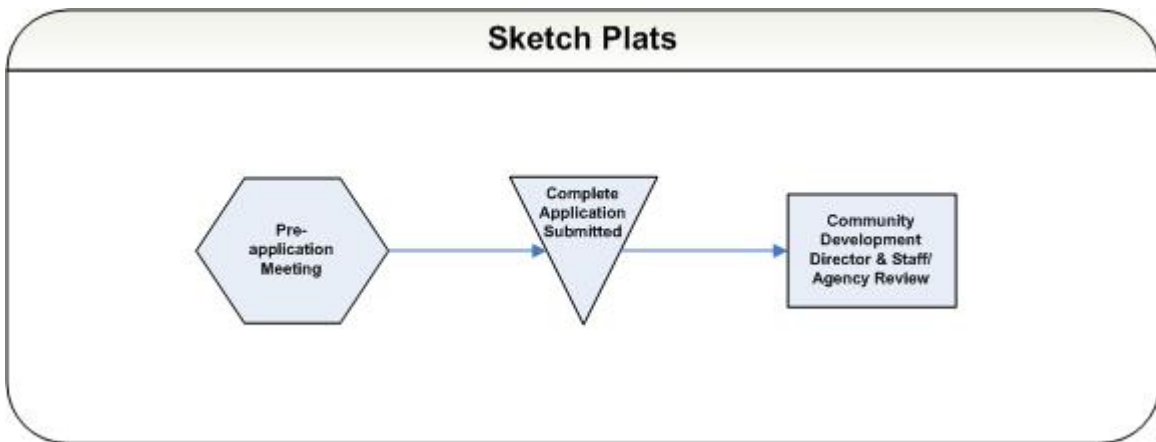
provisions of this land development code pertaining to annexation, development, and use of property.

D. SUBDIVISIONS

Sec. 21-3240. Sketch Plats

- (1) **Description.** A sketch plat is a generalized land use plan for, and layout of, an area proposed to be included within a subdivision. This is an optional step for small subdivisions, but a required step for any subdivision plat greater than 20 lots. This process provides an early, informal evaluation of a proposed subdivision before substantial expenses have been incurred. A sketch plat provides the city staff and the applicant an opportunity to determine the development's conformance with the comprehensive plan and the requirements of this land development code and assists the applicant in the preparation of a final plat.
- (2) **Review.** The director and DRT review sketch plats, and the director may provide comment letters to applicants based upon such reviews. Any comments contained in the letter are informational only and shall not represent a commitment on behalf of the city regarding the acceptability of the plat.

Figure III-14. Sketch Plats



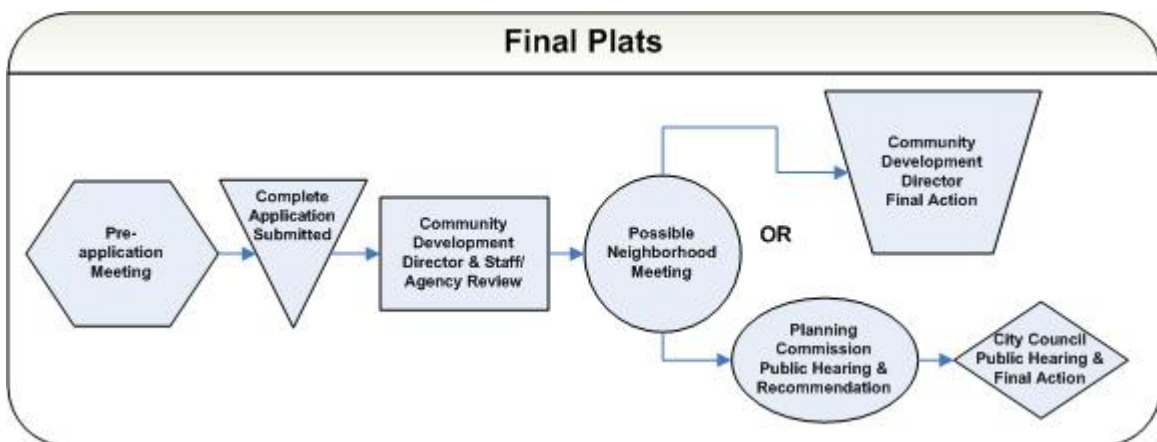
Sec. 21-3241. Final Plats

- (1) **Description.** A final plat provides a permanent and accurate record of the exact size and location of the lots, blocks, streets, drainage areas, easements, and other parcels of land within a subdivision. When filed with the county clerk and recorder, a final plat, becomes the legal instrument whereby the location and boundaries of separate land parcels within the subdivision are identified.

(2) **Review.**

- (a) Except where public hearings are required pursuant to paragraph 4, the director and DRT review applications for final plats and the director is authorized to approve, approve with conditions, or deny such applications based upon the approval criteria outlined below (for purposes of this section, this process shall be referred to as an administrative approval). In the event the director denies the application, the applicant may request that the plat be reviewed through the public hearing process.
- (b) When public hearings are required by paragraph 4 or when the applicant requests a public hearing in response to the director's denial as outlined in paragraph (a), the review process shall be as follows:
 - (i) The director and DRT will review the application and the director will provide a report to the planning commission.
 - (ii) The planning commission will hold a public hearing on the application and make a recommendation to the city council based on the approval criteria below.
 - (iii) The city council will consider the application and the planning commission's recommendation at a public hearing and after the hearing, shall approve, approve with conditions, or deny the proposed plat, based on the approval criteria below.

Figure III-15. Final Plats



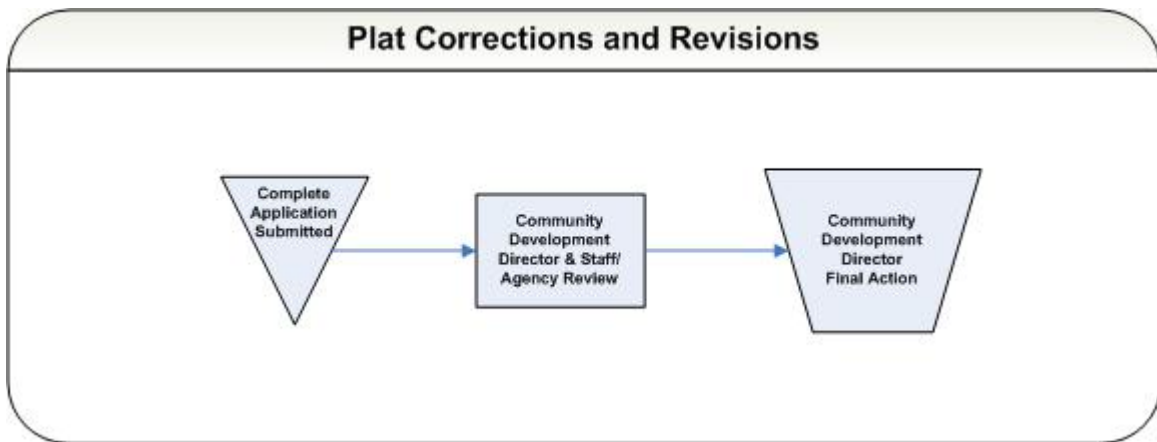
- (3) **Approval Criteria.** A final plat may be approved if the decision maker finds that:
- (a) The subdivision is consistent with any approved rezoning, concept plan or PUD Zone Document;
 - (b) The subdivision is consistent with and implements the intent of the specific zoning district in which it is located;
 - (c) There is no evidence to suggest that the subdivision violates any state, federal, or local laws, regulations, or requirements;
 - (d) The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, and otherwise accomplishes the purposes and intent of this land development code;
 - (e) The subdivision complies with all applicable city standards and does not unnecessarily create lots or patterns of lots that make compliance with such standards difficult or infeasible;
 - (f) The subdivision:
 - (i) Will not result in a substantial or undue adverse effect on adjacent properties, traffic conditions, parking, public improvements, either as they presently exist or as they may in the future exist as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city; or
 - (ii) Any adverse effect has been or will be mitigated to the maximum extent feasible;
 - (g) Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development;
 - (h) A development agreement between the city and the applicant has been executed and addresses the construction of all required public improvements; and

- (i) As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.
- (4) **Public Hearings Required.** Public hearings before the planning commission and the city council shall be required if:
 - (a) The applicant or any property owner within 300 feet of the property submits a written request to the director by the date scheduled for department approval. This written objection request must be directly related to the proposed subdivision. General objections regarding existing land use, zoning, or issues unrelated to the subdivision will not be considered valid objections for purposes of this provision;
 - (b) If any public entity or utility affected by the proposed subdivision claims it is negatively impacted by the proposed subdivision and submits written request to the director by the date scheduled for department approval;
 - (c) The director determines that the final plat should be reviewed through a public hearing process; or
 - (d) The city council requests that the final plat be reviewed through a public hearing process if such request is made before the date scheduled for department approval.
- (5) **Recording.** Once approved, or in the case of a conditional approval, all conditions have been met, the final plat shall be signed by the city. The director and city engineer will sign the plat in the case of an administrative approval. The mayor and city clerk will sign when the final plat is approved by city council. The city will record the signed, final plat. The applicant may be required to pay all recording fees.
- (6) **Dedications and Restrictive Covenants.** Execution of the final plat in accordance with paragraph (5) above shall constitute the city's acceptance of any public dedication. No restrictive covenant shall appear on a plat unless approved by the city.
- (7) **Lapse.** If the approved plat is not executed by the applicant within 60 days of the date of approval of the plat, or within any longer period approved in advance in writing by the director due to unique circumstances, the plat shall be null and void and automatically lapse.
- (8) **Multiple Filings.** If the applicant plans to develop a property in stages, the property may be divided into separate final plats or filings. Each final plat for a filing requires a separate application and review.

Sec. 21-3242. Plat Corrections and Revisions

- (1) **Description.** Occasionally errors are discovered on a recorded plat or minor revisions are necessary which do not affect the character of the subdivision. This section establishes reasonable standards and procedures to correct such errors or allow minor revisions in order to protect the interests of affected property owners. Minor errors and revisions include but are not limited to the following:
- (a) Typographical and spelling errors or transpositions;
 - (b) Incorrect seals;
 - (c) Incorrect dates;
 - (d) Monumentation incorrectly noted, drawn, or missing;
 - (e) Incorrect or missing bearings and/or dimensions on the drawing;
 - (f) Missing or incorrectly displayed arrows or symbols;
 - (g) Street name changes or corrections;
 - (h) Revisions to utility easements upon approval of all affected utility companies;
 - (i) Additions to or deletions from the legal description or dedicatory language that are not typographical in nature; and
 - (j) Incorrect certificates or signatures.
- (2) **Review.** The director will review the application with the city’s engineering and attorney offices, as applicable, and is authorized to approve, approve with conditions, or deny the application based on the approval criteria below.

Figure III-16. Plat Corrections and Revisions



- (3) **Approval Criteria.** An application to revise or correct a plat may be approved if:
- (a) The correction or revision will not increase the number of lots or parcels or create new lots or parcels;
 - (b) The correction or revision will not affect a recorded easement (unless the easement holder has approved the proposed correction or revision);
 - (c) Street locations will not be changed;
 - (d) The correction or revision will not create any nonconformities, or increase the degree of nonconformity of any existing structure or use; and
 - (e) The correction or revision will not result in a violation of any applicable city standard.
- (4) **Recording.** The city will record the corrected or revised plat with the county. The city may require the applicant to pay all associated recording fees.

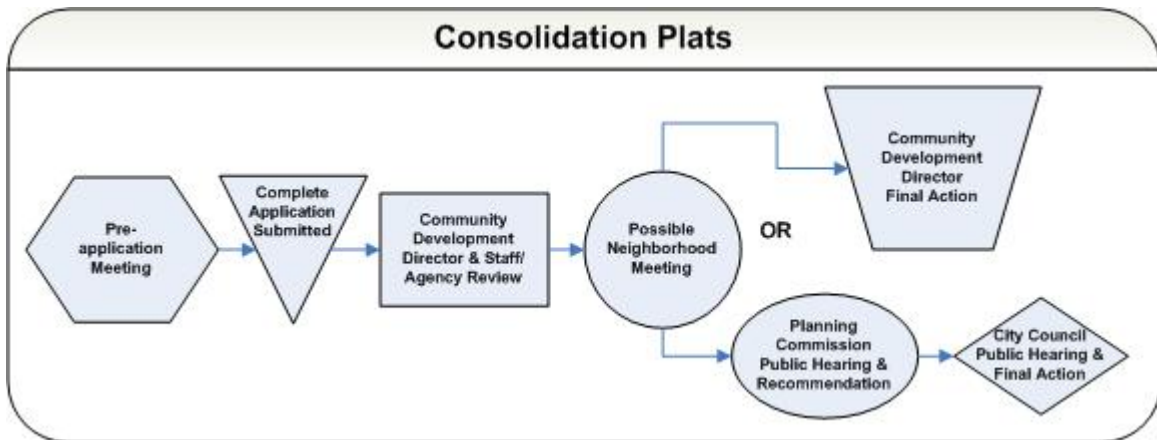
Sec. 21-3243. Consolidation Plats

- (1) **Description.** Consolidation plats are used to consolidate two or more lots or parcels.
- (2) **Review.**
- (a) Except where public hearings are required pursuant to paragraph (4), the director and DRT review applications for consolidation plats

and the director is authorized to approve, approve with conditions, or deny such applications based upon the approval criteria outlined below (for purposes of this section, this process shall be referred to as an administrative approval). In the event the director denies the application, the applicant may request that the plat be reviewed through the public hearing process.

- (b) When public hearings are required by paragraph (4) or when the applicant requests a public hearing in response to the director’s denial as outlined in paragraph (a), the review process shall be as follows:
 - (i) The director and DRT will review the application and the director will provide a report to the planning commission.
 - (ii) The planning commission will hold a public hearing on the application and make a recommendation to the city council based on the approval criteria below.
 - (iii) The city council will consider the application and the planning commission’s recommendation at a public hearing and after the hearing, shall approve, approve with conditions, or deny the proposed plat based on the approval criteria below.

Figure III-17. Consolidation Plats



- (3) **Approval Criteria.** A consolidation plat may be approved if:
 - (a) The subdivision is consistent with any approved rezoning, concept plan or PUD Zone Document;
 - (b) The subdivision is consistent with and implements the intent of the specific zoning district in which it is located;

- (c) There is no evidence to suggest that the subdivision violates any state, federal, or local laws, regulations, or requirements;
 - (d) The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, and otherwise accomplishes the purposes and intent of this land development code;
 - (e) The subdivision complies with all applicable city standards and does not unnecessarily create lots or patterns of lots that make compliance with such standards difficult or infeasible;
 - (f) The subdivision:
 - (i) Will not result in a substantial or undue adverse effect on adjacent properties, traffic conditions, parking, public improvements, either as they presently exist or as they may in the future exist as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city; or
 - (ii) Any adverse effect has been or will be mitigated to the maximum extent feasible.
 - (g) Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development;
 - (h) A development agreement between the city and the applicant has been executed and addresses the construction of all required public improvements shown on the consolidation plat documents; and
 - (i) As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.
- (4) **Public Hearings Required.** Public hearings before the planning commission and the city council shall be required if:
- (a) The applicant or any property owner within 300 feet of the property submits a written request to the director by the date scheduled for department approval. This written objection request must be

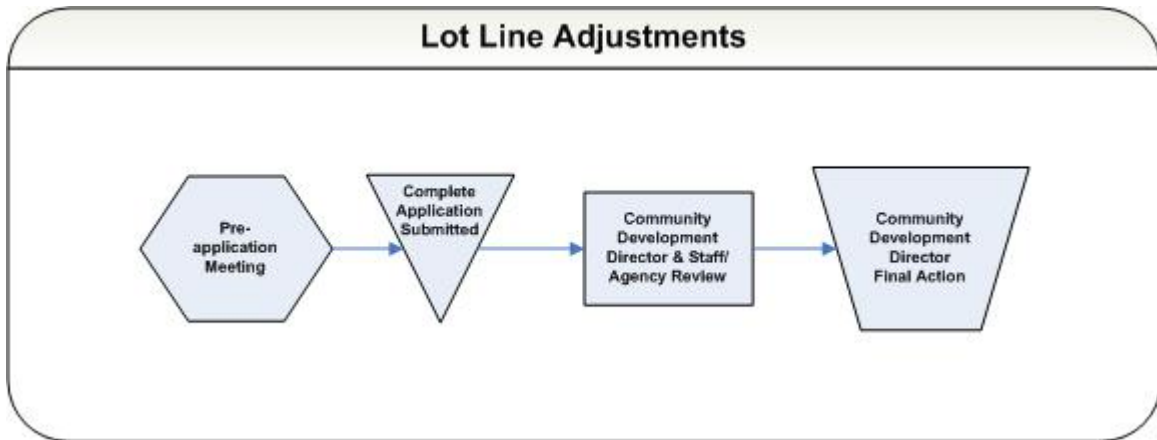
directly related to the proposed subdivision. General objections regarding existing land use, zoning, or issues unrelated to the subdivision will not be considered valid objections for purposes of this provision;

- (b) If any public entity or utility affected by the proposed subdivision claims it is negatively impacted by the proposed subdivision and submits written request to the director by the date scheduled for department approval;
 - (c) The director determines that the consolidation plat should be reviewed through a public hearing process; or
 - (d) The city council requests that the consolidation plat be reviewed through a public hearing process if such request is made before the date scheduled for department approval.
- (5) **Recording.** Once approved, or in the case of a conditional approval when all conditions have been met, the consolidation plat shall be signed by the city. The director and city engineer will sign the plat in the case of an administrative approval. The mayor and city clerk will sign when the consolidation plat is approved by city council. The city will record the signed, consolidation plat. The applicant may be required to pay all recording fees.
- (6) **Dedications and Restrictive Covenants.** Execution of the consolidation plat in accordance with paragraph (5) above shall constitute the city's acceptance of any public dedication. No restrictive covenant shall appear on a plat unless approved by the city.
- (7) **Lapse.** If the approved plat is not executed by the applicant within 60 days of the date of approval, or within any longer period approved in advance in writing by the director due to unique circumstances, the plat shall automatically lapse and be null and void.

Sec. 21-3244. Lot Line Adjustments

- (1) **Description.** Lot lines may only be adjusted in accordance with the process outlined in this section.
- (2) **Review.** The director and the DRT, as deemed appropriate by the director, will review applications for lot line adjustments. The director is authorized to approve, approve with conditions, or deny such applications based on the criteria below.

Figure III-18. Lot Line Adjustments



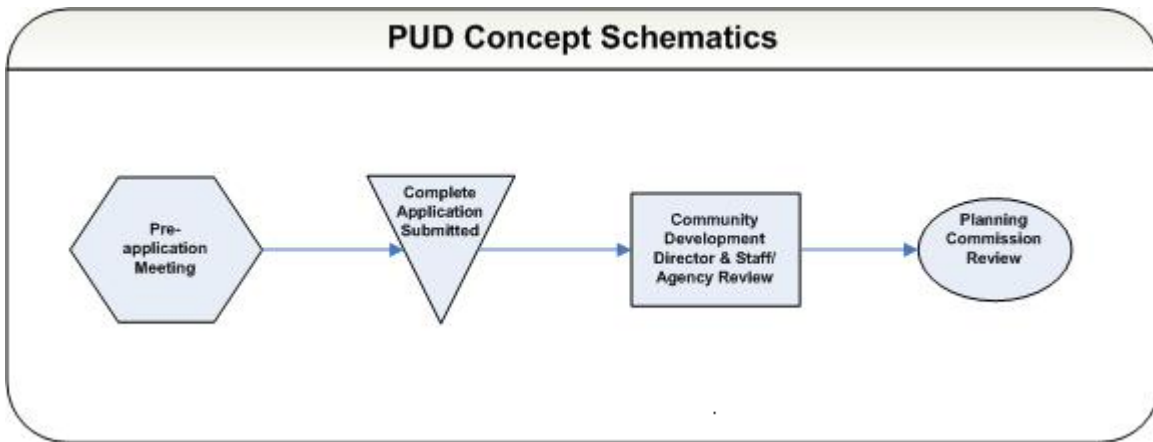
- (3) **Approval Criteria.** The director may approve a lot line adjustment if:
- (a) The adjustment does not increase the number of lots or parcels or create new lots or parcels;
 - (b) The adjustment does not affect a recorded easement without the prior approval of the easement holder;
 - (c) Street locations will not be changed;
 - (d) The adjustment will not create any nonconformities, or increase the degree of nonconformity of any existing structure or use; and
 - (e) The adjustment complies with all other applicable city standards.
- (4) **Acceptance of Dedications.** When a lot line adjustment involves a street, easement, or other public use dedication, the director's approval of the application shall constitute the city's acceptance of any such dedication.
- (5) **Recording.** The city will record each approved lot line adjustment. The applicant may be required to pay all recording fees.
- (6) **Lapse.** If the approved plat is not executed by the applicant within 60 days of the date of approval, or within any longer period approved in advance in writing by the director due to unique circumstances, the plat shall automatically lapse and be null and void.

E. PLANNED UNIT DEVELOPMENTS

Sec. 21-3250. PUD Concept Schematics

- (1) **Description.** A PUD concept schematic is a generalized land use/site plan for an area proposed to be included within a PUD district. It is the first step in the PUD process and it allows early, informal evaluation of a proposed PUD zoning district before substantial expenses have been incurred. The PUD Concept Schematic provides the city staff and the applicant an opportunity to determine the development’s conformance with the comprehensive plan and the requirements of this land development code, and assists the applicant in the preparation of a PUD zone document. The director may waive the requirement to file a PUD concept schematic.
- (2) **Review.** The director and DRT will review the PUD concept schematic and the director may provide a comment letter to the applicant based upon such review. In addition, if requested by the director, the planning commission may review the concept schematic and provide further comment. Any comments provided to the applicant are informational only and shall not represent a commitment on behalf of the city regarding the acceptability of the schematic.

Figure III-19. PUD Concept Schematics



Sec. 21-3251. PUD Zone Documents

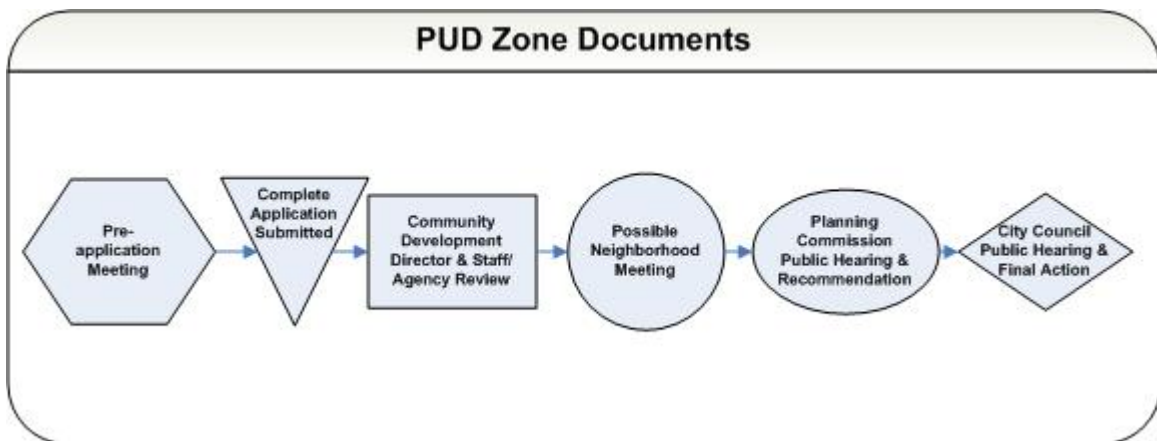
- (1) **Description.** A PUD zone document establishes entitlements for property including allowable land use and bulk standards. A PUD zone document covers all of the land area to be included in the PUD, or an identified phase of a PUD, and identifies the type and total amount of development to occur within the PUD (dwelling units and nonresidential floor area), as well as the proposed plan for pedestrian and vehicular circulation within and leading to the PUD. An applicant may submit a sketch or final (when

applicable) plat or a PUD permit application for simultaneous processing with a PUD zone document.

(2) **Review.**

- (a) The director and the DRT will review PUD zone documents and provide a report to the planning commission regarding the document's acceptability in light of the approval criteria listed below.
- (b) The planning commission shall hold a public hearing on the application and, after the public hearing has been held, make a recommendation to the city council based on the approval criteria found below.
- (c) After receiving the recommendation of the planning commission, the city council shall consider the application at a public hearing. After such hearing, the city council shall approve, approve with conditions, or deny the proposed PUD zone document, based on the review criteria below.

Figure III-20. PUD Zone Documents



(3) **Approval Criteria.**

A PUD zone document may be approved only if:

- (a) The PUD zone document is consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city, or reflects conditions that have changed since the adoption of the comprehensive plan;
- (b) The PUD zone document is consistent with any previously reviewed PUD concept schematic;

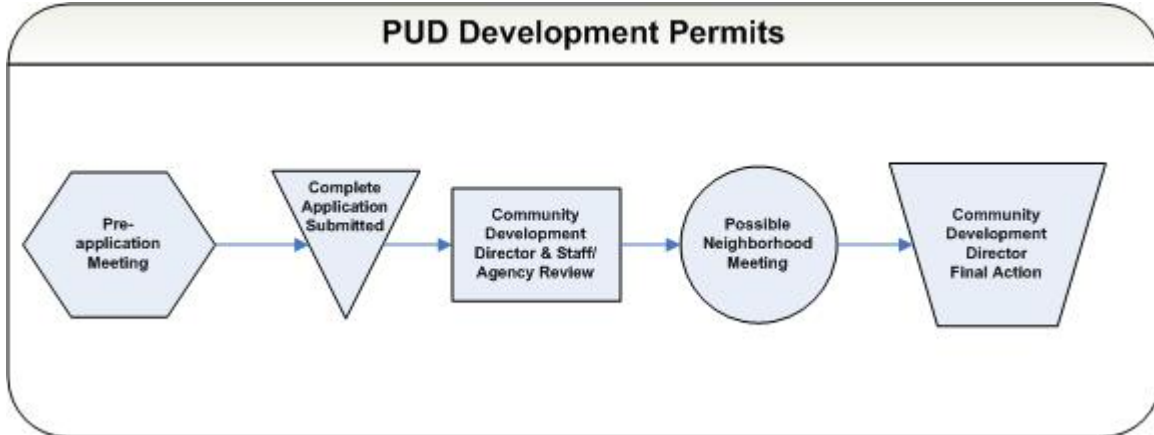
- (c) The PUD:
 - (i) Addresses a unique situation, confers a substantial benefit to the city, or incorporates creative site design such that it achieves the purposes set out in section 21-4370 (PUD Zone District) and represents an improvement in quality over what could have been accomplished through strict applications of the otherwise applicable district or development standards. This may include but is not limited to improvements in open space; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; unique architecture or design, or increased choice of living and housing environments; or
 - (ii) The PUD is required to avoid completely prohibiting a legal, permitted business use within the city;
 - (d) The PUD complies with all applicable city standards not otherwise modified or waived by the city;
 - (e) The PUD is integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features;
 - (f) To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community;
 - (g) Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development;
 - (h) As applicable, the proposed phasing plan for development of the PUD is rational in terms of available infrastructure, capacity, and financing; and
 - (i) The same development could not be accomplished through the use of other techniques, such as height exceptions, variances, or minor modifications.
- (4) **Approval by Ordinance.** Because approval of a PUD zone document creates a new zone district in the city which requires an amendment to the city's official zoning map, all approvals shall be in the form of ordinances.
- (5) **Amendment.** Modification to an approved PUD zone document, other than the minor modifications allowed pursuant to section 21-3215 (Minor

Modifications), requires the submission of a new PUD zone document application.

Sec. 21-3252. PUD Development Permits

- (1) **Description.** A PUD development permit represents the last stage of review required prior to the issuance of building permits or other permits for improvements or land uses within a PUD zone district. The construction, modification, or alteration of any building or structure and all specific land uses within the PUD shall be governed by the PUD development permit. A PUD development permit is only issued when all details of the proposed PUD development (or a portion of that development) have been finalized and have been reviewed for consistency with the terms of the approved PUD zone document and all design and development standards in this land development code that have not been waived or modified by the terms of the approved PUD zone document.
- (2) **Review.** The director and DRT review applications for PUD development permits. The director is authorized to approve, approve with conditions, or deny the application based on the approval criteria below.

Figure III-21. PUD Development Permits



- (3) **Approval Criteria.** An application for a PUD development permit may be approved if it:
 - (a) Complies with city standards;
 - (b) Is consistent with any previously approved PUD zone document, rezoning concept plan, or other plans or land use approvals;
 - (c) Provides adequate mitigation for any significant adverse impacts resulting from the use;

- (d) Creates a positive precedent for the future cumulative development of the immediate area;
 - (e) Provides utilities, drainage, and other necessary facilities in accordance with the final PUD permit; and
 - (f) If the proposed PUD permit includes mixed-use areas, then:
 - (i) The elements of the PUD development plan, such as streets, structures, parking areas, pedestrian walkways, courtyards, plazas, landscaping, service areas, open spaces, bicycle movement provisions, screening, lighting, and maintenance and storage facilities are arranged and designed to further the purpose and intent of section 21-4370 (PUD Zone District);
 - (ii) Design and location of ingress and egress minimize traffic congestion on public and private streets; and
 - (iii) The residential design will provide a positive effect on the environment of the citizens who will occupy the residences.
- (4) **Lapse.** A PUD development permit shall lapse and be of no further force and effect if a building permit application for the development, or for a phase of the development identified in the approved PUD development permit, has not been submitted within the time-frame set forth in the PUD development permit or, if no time-frame was specified, within two years of the date of approval.
- (5) **Control of PUDs Following Construction.** After a PUD has been approved, the use of the land and the construction, modification, or alteration of any building or structures within the PUD shall be governed by the approved PUD development permit. Modification to an approved PUD development permit, other than minor modifications allowed pursuant to section 21-3215 (Minor Modifications), requires the submission of a new PUD application.

DIVISION 3: ANNEXATIONS

Sec. 21-3300. Discretion and Conflicts

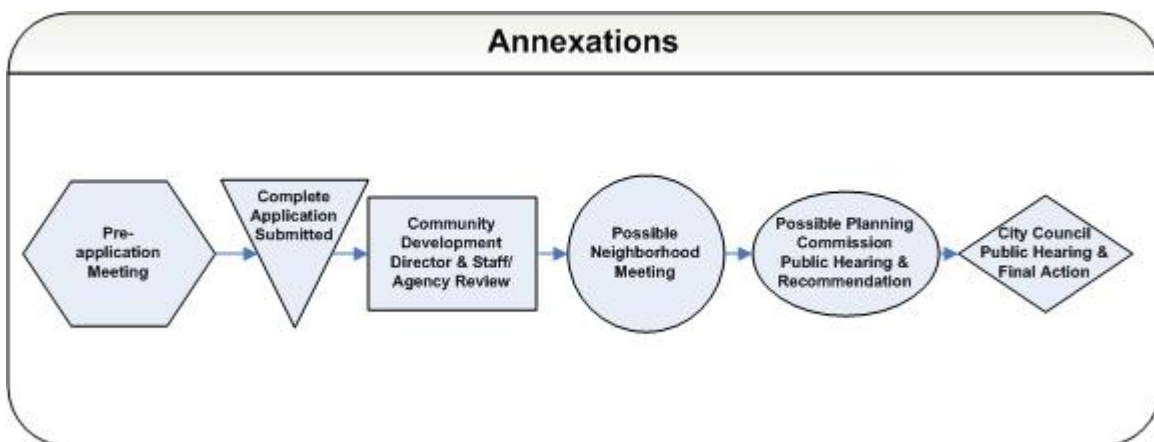
Annexation is a discretionary, legislative act. Accordingly, the city shall never be compelled to annex, unless otherwise required by state law, even if all annexation requirements have been satisfied. The city's annexation requirements, set forth in this land development code, are intended to

supplement the provisions of the state statutes and are in no way to be construed as being in conflict therewith.

Sec. 21-3310. Review

- (1) **Pre-application Meeting.** It is strongly recommended that an applicant meet with the city prior to submission of an application for annexation to identify procedures, processes, and relevant information regarding the proposed annexation.
- (2) **Director Review and Referral.**
 - (a) The director, and the DRT or the planning commission as deemed appropriate by the director, shall conduct an analysis of existing land uses on the subject property to ascertain zoning and potential nonconformities. The director shall assess whether the petition for annexation substantially complies with state law and this land development code and shall prepare a draft resolution for the city council so that the city council may make a determination of compliance as required by state law.
 - (b) The director shall report to the city council his assessment of whether the petition for annexation substantially complies with state law. Such report shall be provided to the city council prior to the date on which the annexation ordinance is introduced on first reading and shall include a summary of any recommendations from the DRT or the planning commission.

Figure III-22. Annexations



Sec. 21-3320. Pre-Annexation Agreements

- (1) **Pre-Annexation Agreement Required.** Except for unilateral annexations or annexations upon election, a pre-annexation agreement shall be

required before an annexation is approved. The pre-annexation agreement shall identify the mutual understanding of the commitments and responsibilities of the city and the property owner(s) related to the subject property and annexation.

- (2) **Director to Coordinate Pre-Annexation Agreement Negotiations.** The director coordinates all pre-annexation agreement negotiations. The director prepares the agreement in a form approved by the city attorney and presents such to the applicant. The applicant may either sign the agreement or present an alternative agreement to the director for consideration.
- (3) **Timing and Finalization of Pre-Annexation Agreements.** If the applicant accepts the agreement as drafted by the city, the applicant shall submit the pre-annexation agreement to the director, signed and acknowledged by all property owners, at least seven days prior to the city council meeting at which the first reading of the annexation ordinance will be considered. If the applicant presents an alternative agreement to the city for consideration, the applicant shall submit the revised pre-annexation agreement to the director, signed and acknowledged by all property owners, at least 14 days prior to the city council meeting at which the first reading of the annexation ordinance will be considered. If the applicant's alternative agreement differs substantially from the city-prepared agreement, the city may delay scheduling the annexation for city council consideration in order to review the alternative agreement. Except as otherwise provided in this section, no annexation ordinance shall proceed to first reading until a pre-annexation agreement has been signed by the property owner(s) and approved by the city.
- (4) **Pre-Annexation Agreement to be Recorded.** Upon annexation, such agreement shall be recorded to provide notice to future purchasers of said property. All recording costs shall be borne by the applicant.

Sec. 21-3330. Other Districts

It is the applicant's responsibility to apply for inclusion in or exclusion from any applicable district(s) such as special districts and improvements districts.

Sec. 21-3340. Annexation Approval Criteria

The annexation application may be approved if:

- (1) The annexation is in compliance with applicable state laws and this land development code;
- (2) The annexation is consistent with the comprehensive plan, and the best interests of the city would be served by annexation of such property;

- (3) The property is within the Municipal Service Area (MSA) of the Commerce City Growth Boundary as stated in the comprehensive plan. No property outside of the MSA or Growth Boundary shall be considered for annexation unless the city council finds that, consistent with the comprehensive plan, the best interests of the city would be served by annexation of such property and provided a land use plan for the area proposed to be annexed is submitted together with the annexation application;
- (4) The property is capable of being integrated into the city in compliance with all applicable provisions of this land development code;
- (5) At the time any development of the area proposed to be annexed is completed, there is a reasonable likelihood that capacity will exist to adequately serve residents or users of such area with all necessary utilities, municipal services and facilities; and
- (6) The annexation boundaries are configured such that the annexation will not limit the city's ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed.

Sec. 21-3350. Zoning of Newly Annexed Land

- (1) **Generally.** Zoning of newly-annexed land or land in the process of annexation shall be considered an initial zoning and should represent good planning principles and be consistent with the goals and land use designations of the comprehensive plan.
- (2) **Criteria for Zoning.** After passage on first reading of an ordinance annexing property to the city, the subject property shall be given the zoning classification:
 - (a) Most compatible with the city's comprehensive plan designation of the property;
 - (b) Most comparable to the county zoning classification existing on the subject property at the time of acceptance by the city of the annexation petition for the subject property; or
 - (c) Most comparable to the present use(s) of the property.
- (3) **Land Use Approvals.** In the event it is determined by the city or the applicant that development approvals for the land to be annexed should be obtained concurrently with the annexation application and initiation of zoning, the applicant may initiate the development approval process required elsewhere in this land development code for such development

approval along with the annexation process and the city council may consider the proposed development application, including any concept plan, development plan, and any applicable comprehensive plan amendment(s) when the annexation ordinance is considered under first reading.

- (4) **Sequence of Events.** Neither an ordinance proposing zoning of land to be annexed or proposing development approvals for the land to be annexed shall be finally adopted by the city council prior to the date of final adoption of the annexation ordinance.

Sec. 21-3360. Annexed Land in the Floodplain

Upon annexation, any portion of the area to be annexed situated within the 100-year floodplain for First Creek, Second Creek, Third Creek, Beebe Draw, Box Elder Creek, and any other floodplain designated by the city shall be dedicated to the city unless otherwise provided.

Sec. 21-3370. Annexed Areas Added to Wards

In the absence of change of ward boundaries by amendment to the municipal code, those areas annexed to the city shall become a part of the ward to which the annexed area is most contiguous.

Sec. 21-3380. Right-of-Way Dedications

Upon annexation, any portion of the annexed area that is depicted on the city's transportation plan as an arterial roadway shall be dedicated to the city, unless otherwise provided.

DIVISION 4: POST REVIEW ACTIONS

A. MODIFICATIONS, AMENDMENTS AND REVOCATIONS

Sec. 21-3400. Modifications

Minor modifications to an approved final subdivision plat, PUD Permit, or development plan may be authorized by the Director as set forth in section 21-3215 (Minor Modifications).

Sec. 21-3405. Amendments

- (1) **Description.** Any change to an approved plat, plan, or permit that does not qualify as a minor modification, including all changes in use and density, shall be considered an amendment.

- (2) **Review and Approval Criteria.** Amendments shall be treated as a new application subject to the applicable procedures and approval criteria set forth in this land development code. Except that amendments may be approved only upon a showing that they are required by changes in conditions that have occurred since the original final plat, plan, or permit was approved, by changes in development policies of the City, or by other conditions that were unforeseen at the time of the original final plan, plat, or permit approval. This showing is in addition to the regular approval criteria of the applicable application.

Sec. 21-3410. Revocations

The city may revoke any approved plat, plan, or permit if the applicant for such plat, plan, or permit fails to comply with any of the conditions that were imposed by the city in conjunction with the approval. In such cases, the city will notify the applicant of the proposed revocation and the body or staff member who imposed the conditions will hear and decide whether the plat, plan, or permit should be revoked.

B. APPEALS

Sec. 21-3415. Right to Appeal

An appeal may be filed with the city in conjunction with a final decision issued by the director, the building official, the floodplain administrator, or any other city administrator related to an application filed pursuant to this article. Such appeal must be filed by the applicant, the property owner of the subject property, or a person otherwise permitted to appeal by state law (collectively referred to as parties in interest) and shall be subject to the procedures outlined below.

Sec. 21-3420. Related Developmental Approvals Stayed

Upon the filing of an appeal, no related development approvals or permits shall be issued for the subject property unless the official whose decision is being appealed certifies that such a stay will cause immediate peril to life or property. If such a certification is made, development approvals and permits may be issued for the subject property, unless a “stop work order” is issued by the city, or a restraining order is issued by a court.

Sec. 21-3425. Appeal Forums

- (1) **The Board of Adjustment.** All appeals from administrative decisions related to temporary use permits, minor modifications, grading permits, and floodplain development permits, as well as appeals from the building official’s denial of a building or sign permit if the denial is based upon a standard contained in this land development code shall be heard by the board of adjustment.

- (2) **Building Board of Appeals.** An appeal from the building official's denial of a building or sign permit based upon some ground other than a standard contained in this land development code shall be heard by the building board of appeals.
- (3) **Planning Commission and City Council.** All appeals from the decision of the director, other than those outlined in paragraphs (a) and (b), shall be reviewed by the planning commission and the city council.
- (4) **District Court.** Appeals from decisions of the board of adjustment or the city council shall be appealed in accordance with Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 21-3430. Filing and Record

Appeals shall be filed with the director no later than ten days after the date of the initial decision. Upon receipt of an appeal, the director will forward the documents constituting the record of the action to the appropriate appellate body.

Sec. 21-3435. Standard of Review

Except for appeals filed under Rule 106 of the Colorado Rules of Civil Procedure, the appellate body shall review the application de novo. The board of adjustment and the city council shall approve, approve with conditions or deny the application based upon the relevant approval criteria. The planning commission recommends action on the application based upon the relevant approval criteria.

Sec. 21-3440. Time of Review

- (1) **Appeals to the Board of Adjustment and the Building Board of Appeals.** Appeals will be considered within 60 days of the date the appeal is filed.
- (2) **Appeals to the Planning Commission and City Council.** The planning commission will consider an appeal within 45 days of the date the appeal is filed and will submit a recommendation to the city council. The city council will consider the application and the planning commission's recommendation within 45 days of the date it receives the planning commission's recommendation.

Sec. 21-3445. Procedures on Appeal

The appellate bodies are authorized to adopt all rules of procedure they deem appropriate for proper administration of appellate matters.

Sec. 21-3450. Decisions

- (1) The city may reverse, affirm, or modify in whole or in part the order, requirement, decision, or determination.
- (2) Written notice of the decision normally will be sent to the appellant and all other parties who have made a written request for notification within ten days of the decision. The decision of the appellate body shall be deemed the final decision of the city on the application.