

ARTICLE 2 APPLICATIONS, PROCEDURES AND CRITERIA

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Article 2, Applications, Procedures and Criteria provides the steps for applying the Unified Development Code standards to specific development applications. It includes the technical steps in the development review process and criteria for evaluating development applications. It is useful to anyone who may become involved in development review, including city staff, public officials, potential applicants and citizens.

TITLE 17 - UNIFIED DEVELOPMENT CODE

ARTICLE 2 APPLICATIONS, PROCEDURES AND CRITERIA

- 2.1 Divisions of Land
- 2.2 Zoning Applications
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2.1 DIVISIONS OF LAND

- 2.1.1 Administrative Plats
- 2.1.2 Preliminary Plat
- 2.1.3 Final Plat

2.1.1 Administrative Plats

- a. **Intent.** Administrative plat procedures are intended to provide expedited review and approval for minor adjustments to legal boundaries and title of property for proper recording. These adjustments have little or no public infrastructure is anticipated in association with the application, impacts on public facilities from site development is minimal, and are within ownership patterns of development patterns that have otherwise been determined in accordance with the City's long-range comprehensive development plan.
- b. **Applicability.** The administrative plat process is applicable for divisions of land in the City that meet the specific eligibility requirements in this section. The application for an administrative plat may be initiated by the property owner(s) of all property subject to the application, or the property owner(s)'s authorized agent.
 - 1. **General Eligibility.** All administrative plats shall meet the following threshold eligibility requirements:
 - (a) The application involves no adjustments to the layout of existing public streets or public areas;
 - (b) The application involves no dedication of new public streets or public areas;
 - (c) The application involves no new area anticipated

for potential dedication as public streets or public areas, whether through official plans or by operation of development regulation.

- 2. **Revised Final Plat.** Revisions to a previously approved final plat may be eligible for administrative approval where:
 - (a) The revisions are due to field conditions that could not have been reasonably anticipated or discovered at the time of the final plat which results in no material change to the application; or
 - (b) The revisions are due to changes in the development program, and these changes will result in no additional lots and will impact public facilities the same or similarly to the previously approved application; or
 - (c) The revisions are being done according to an approved Regulating Plan applying standards of Article 7, and are within the maximum approved development identified on the particular block or parcel in the Regulating Plan.
- 3. **Lot Line Adjustment.** Adjustments to previously platted lots may be eligible for administrative approval where:
 - (a) The adjustment affects no more than 4 lots;
 - (b) The adjustment results in no additional lots; and
 - (c) The adjustment creates no non-conformances on any lot.
- 4. **Simple Subdivision.** A simple subdivision of parcels or lots may be eligible for administrative approval where:
 - (a) It results in no more than 3 new lots, including any remaining parcel; and
 - (b) No portion of the new lots or any remaining parcel has been created previously through an administrative approval.
- c. **Specific Procedures.** An administrative plat has the following specific procedures:
 - 1. **Pre-application Conference.** Prior to submittal of an application the applicant shall schedule at least 1

pre-application meeting with the staff to discuss the eligibility of the application for administrative review and the ability of potential future development on the property to meet the criteria.

2. *Staff Review.* Upon submittal of a formal application, staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.

- (a) *Complete Applications.* Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure the deficiencies. Staff shall schedule complete applications for formal internal review subject to the criteria in this section.

- (b) *Posted Notice.* Prior to a final decision, staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.

- (c) *Final Decision.* Upon review according to the criteria in this section, and between 7 and 15 days of the determination of a complete application, the Director shall take one of the following actions:

- (1) Approve the application;
 - (2) Deny the application and state the specific reasons for denial;
 - (3) Refer the application to Planning Commission if at any point in the review the Director determines that the application is not eligible for an administrative plat process or otherwise does not meet the criteria for approval.

3. *Effect of Decision.* The decision of the Director is the final decision and shall be made in writing. Approval of the application shall be valid for up to 1 year. If not acted on and recorded within 1 year the approval shall be void.

4. *Recording.* Following approval of an administrative plat, the Director and the City Engineer shall sign the

plat. The applicant shall then record the plat and other required documents in the office of the county clerk and be responsible for any associated fees. The applicant shall provide a copy of the recorded plat to the Director prior to issuance of any building permits.

- d. *Review Criteria.* Prior to approving an administrative plat the Director shall find that the application meets all of the following criteria:

1. The division of land shall be consistent with the comprehensive plan.
2. The division of land shall be consistent with development and ownership patterns in the vicinity, or consistent with any change in development and ownership patterns identified in the comprehensive plan or any specific area plans.
3. The division of land meets the purposes, intent, and all applicable standards in Article 4.
4. All potential development resulting from the application will produce no material and negative impacts on existing and planned public facilities in the area.
5. All proposed lots shall be buildable lots according to the existing zoning district standards, and result in design and development patterns that meet the Intent and Applicability statements of the existing zoning district.
6. The division of land will not create any undue influence on existing or potential development for adjacent property considering the existing zoning and comprehensive plan policies for that property.

2.1.2 Preliminary Plat

- a. *Intent.* Preliminary plat procedures are intended to determine whether the proposed division of land will comply with the long-range comprehensive plan for the City, will meet the design standards of the subdivision regulations, and will result in buildable lots capable of meeting the existing or proposed zoning standards, and meets other policies and standards contained in other applicable laws or regulations that may relate to development specific property.

- b. *Applicability.* The preliminary plat process is applicable to any division of land in the City or within 1 mile of the City that is not eligible for the Administrative Plat procedures.

The application for a preliminary plat may be initiated by the property owner(s) of all property subject to the application, or the property owner(s)'s authorized agent.

c. **Specific Procedures.** A preliminary plat has the following specific procedures:

1. **Pre-application Conference.** A pre-application conference is not required, but is recommended for preliminary plat applications, particularly for development that is complex or phased. The pre-application conference may discuss general development concepts, long-range planning issues and policies for the property or vicinity, and specific application procedures and requirements for a formal application.

2. **Staff Review.** Upon submittal of a formal application staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.

(a) **Complete Applications.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure deficiencies. Staff shall schedule complete applications for review before the Planning Commission. The review shall be scheduled for the next available Planning Commission meeting between 15 to 60 days of the determination of a complete application.

(b) **Notice.** Prior to review by the Planning Commission the following notice shall occur:

(1) **Posted Notice.** Staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.

(2) **Published Notice.** Notice shall be published in a newspaper of general circulation at least 15 days but no more than 21 days prior to

the scheduled Planning Commission review indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Planning Commission review.

(c) **Review Comments.** At least 5 working days prior to the scheduled review before the planning commission, staff shall forward formal comments on the application to the Planning Commission, including any external agency comments. A copy of the comments shall be submitted to the applicant at this time.

3. **Expedited Review.** As part of the staff review, and in conjunction with the applicant, staff may make a determination that a proposed plat is eligible for expedited review. To be eligible for expedited review the preliminary plat shall contain no significant planning, design, and engineering issues. Upon a determination by staff, the applicant may submit a preliminary and final plat to the Planning Commission. Upon approval of the preliminary plat by Planning Commission, the final plat could advance to the City Council, including all engineering requirements for final plat applications, for review, approval and acceptance. Denial of an expedited preliminary plat by the Planning Commission shall terminate the application, except that the preliminary plat may be appealed to the City Council, as provided in this section. Each application would be otherwise processed according to the procedures and criteria in this section.

4. **Planning Commission Review.** The Planning Commission shall review the application subject to the criteria in this section, and take one of the following actions:

(a) Recommend approval of the preliminary plat and recommend that a final plat be prepared;

(b) Recommend approval of the preliminary plat with conditions and recommend that a final plat be prepared provided it addresses the conditions. Conditions or modifications shall be:

(1) to better meet standards and review criteria; or

(2) to address situations created by or aggravated by the proposed application, and which conditions are roughly proportional to the impacts of the proposed development;

- (c) Recommend denial of the preliminary plat and state the specific reasons for denial;
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The review shall resume at the next Planning Commission regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once without the applicant's consent.
5. *City Council Appeal.* Upon a recommendation from the Planning Commission, the application shall be scheduled for acknowledgement by the City Council at the next regular meeting. At this meeting City Council shall:
- (a) Acknowledge the Planning Commission recommendation; or
 - (b) Amend the Planning Commission recommendation based on a review of the merits of the application. This review shall consider:
 - (1) staff review comments and any outside agency comments;
 - (2) the Planning Commission's recommendations and the record before the Planning Commission; and
 - (3) the review criteria in this section.
6. *Effect of Decision.*
- (a) *Approval.* Approval of the preliminary plat shall not constitute approval of the subdivision or development, and shall only be considered as authorization to prepare and present a Final Plat subject to the procedures, standards and criteria of these regulations. Approval shall be valid for up to 18 months, unless a phasing plan is specifically proposed in the preliminary plat. If a final plat is not submitted for any portion of the application within 18 months the approval shall be void. Approval of a final plat for a portion of the preliminary plat shall reauthorize the entire preliminary plat unless otherwise specified as part of the final plat approval.
 - (b) *Denial.* Denial of a preliminary plat shall be a final decision and any further action shall require a new preliminary plat subject to the procedures, standards and criteria of these regulations. An applicant may appeal a denial of a preliminary plat by the Planning Commission to the City Council within 15 days of the decision. The appeal shall be scheduled for review and acknowledgement by the City Council according to the Council rules and procedures. The City Council shall review the application according to the criteria in this section.
- d. **Review Criteria.** In reviewing, providing comments, and making recommendations and decisions on a proposed preliminary plat, the Staff, Planning Commission and City Council shall use the following criteria:
- 1. The application is in accordance with the development policies and physical patterns identified in the comprehensive plan.
 - 2. The application reflects sound planning and urban design principles with respect to existing and potential future development in the vicinity, including consideration of current and future streets, open spaces, blocks and lots, and public utilities or facilities.
 - 3. The division of land meets the purposes, intent, and all applicable standards in Article 4.
 - 4. Any phasing proposed in the application is clearly indicated and demonstrates a logical and well-planned development pattern. This may include consideration of amenities and public facilities of the subdivision within each phase compared to the anticipated timing or the likelihood of future phases being constructed as planned.
 - 5. The impacts identified in specific studies or technical reports that were prepared or requested to be prepared in association with the application, and whether the findings and recommendations of these reports, or any modifications or conditions on approval of the application, can mitigate these impacts.
 - 6. All proposed lots shall be buildable lots according to the existing or proposed zoning district standards, and result in site design and development patterns that meet the Intent and Applicability statements of the existing or proposed zoning district.
 - 7. The application will not create any undue influence on existing or potential development for adjacent property considering the existing zoning and comprehensive plan policies for that property.

8. The application is not harmful to the public health, safety, and welfare.

2.1.3 Final Plat

- a. **Intent.** Final plat procedures are intended to create an accurate public record for the sale of lots, to guarantee construction of all public improvements according to the standards in the subdivision regulations, and to ensure that all lots are buildable lots according to the appropriate zoning prior to recording.
 - b. **Applicability.** The final plat process is applicable to any division of land in the City or within 1 mile of the City that has been acknowledged and approved by the City Council through the preliminary plat procedures. The application for a final plat may be initiated by the property owner(s) of all property subject to the application, or the property owner(s)'s authorized agent.
 - c. **Specific Procedures.** A final plat has the following specific procedures:
 1. **Pre-application Conference.** A pre-application conference is not required for a final plat. It is only recommended if the final plat involves changes from an approved preliminary plat or involves issues meeting modification or conditions of the preliminary plat approval.
 2. **Staff Review.** Upon submittal of a formal application, staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) **Complete Applications.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official submittal requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure deficiencies. Staff shall schedule complete applications for review before the Planning Commission. The review shall be scheduled for the next available Planning Commission meeting between 15 to 60 days of the determination of a complete application. Any application for a final plat that is consistent with a preliminary plat that was reviewed and acknowledge by the Planning Commission and City Council without modifications or conditions may bypass the Planning Commission review and be submitted directly to City Council with a staff recommendation.
 3. **Planning Commission Review.** The Planning Commission shall review the application subject to the criteria in this section, and take one of the following actions:
 - (a) Recommend to the City Council that the application be approved;
 - (b) Recommend to the City Council that the application be approved with specific conditions or modifications. Conditions or modifications shall be:
 - (1) to better meet standards and review criteria; or
 - (2) to address situations created by or aggravated by the proposed application, and which conditions are roughly proportional to the
- (b) **Notice.** Prior to review by the Planning Commission the following notice shall occur:
 - (1) **Posted Notice.** Staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.
 - (2) **Published Notice.** Notice shall be published in a newspaper of general circulation at least 15 days but no more than 21 days prior to the scheduled Planning Commission review indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Planning Commission review.
- (c) **Comments.** At least 5 working days prior to the scheduled review before the Planning Commission, staff shall forward formal comments on the application to the Planning Commission, including any external agency comments. A copy of the comments shall be submitted to the applicant at this time.

ARTICLE 2

APPLICATIONS, PROCEDURES AND CRITERIA

2.2 ZONING APPLICATIONS

- impacts of the proposed development;
- (c) Recommend to the City Council that the application be denied, and state the specific reasons for denial;
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The review shall resume at the next Planning Commission regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once without the applicant's consent.
4. *City Council Approval and Acceptance.* Upon recommendation of the Planning Commission or Staff, the application shall be scheduled for approval and acceptance by the City Council at the next regular meeting. At this meeting City Council shall review the application subject to the criteria of this sections and:
- (a) Approve the final plat;
 - (b) Approve the final plat with specific conditions or modifications. Conditions or modifications shall be:
 - (1) to better meet standards and review criteria; or
 - (2) to address situations created by or aggravated by the proposed application, and which conditions are roughly proportional to the impacts of the proposed development;
 - (c) Deny the final plat, and state the specific reasons for denial; or
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The review shall resume at the next City Council regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once without the applicant's consent.
5. *Effect of Decision.* The decision of the City Council is the final decision.
- (a) *Approval and Acceptance.* Approval and acceptance shall be valid for up to 18 months. If the final plat is not acted on and recorded within 18 months the approval shall be void and have the effect of a denial.
 - (b) *Denial.* Denial of a final plat shall prohibit any development activity in association with the application. Any new activity shall require a new preliminary plat according to the standards and procedures of these regulations.
6. *Recording.* Following approval of a final plat, the Director, the City Clerk, and the Mayor shall sign the plat. The applicant shall then record the plat and other required documents in the office of the county clerk and be responsible for any associated fees. The applicant shall provide a copy of the recorded plat to the Director prior to issuance of any building permits.
- d. *Review Criteria.* In reviewing, providing comments, and making recommendations and decisions on a proposed final plat, Staff, Planning Commission and City Council shall use the following criteria:
- 1. The layout and design of the final plat is in substantial compliance with the approved preliminary plat considering the number of lots or parcels, street and block layout, and access, and any deviations in the final plat brings the application in further compliance with the comprehensive plan.
 - 2. The application meets any conditions or modifications of the approved preliminary plat;
 - 3. The application meets the purposes, intent, and applicable standards of Article 4;
 - 4. The improvement plans for any required on-site and off-site public or private improvements have been reviewed and approved by the City Engineer.

2.2 ZONING APPLICATIONS

- 2.2.1 Zoning Map Amendment
- 2.2.2 Planned Development - Regulating Plan and Development Master Plan
- 2.2.3 Site Plans
- 2.2.4 Conditional Use Approval
- 2.2.5 Administrative Approval
- 2.2.6 Temporary Use Approval

2.2.1 Zoning Map Amendment

- a. **Intent.** Zoning map amendment procedures are intended to provide review of changes to zoning districts for a specific parcel or change to the boundary of a zoning district that may be appropriate based on specific development proposals, changed circumstances for the property and surrounding area, or changed public policy with respect to long-range plans.
- b. **Applicability.** An application for a zoning map amendment may be initiated by:
1. The City Council on its own initiative;
 2. The Planning Commission or staff through a petition to the City Council, signed by the Chair of the Planning Commission or Director respectively; or
 3. The property owner(s), signed by the owner(s) or authorized agent of all property within the area proposed to be rezoned.
- c. **Specific Procedures.** A zoning map amendment has the following specific procedures:
1. **Pre-application Conference.** A pre-application conference is not required, but is recommended for zoning map amendment applications, particularly for development that is complex or phased. The pre-application conference may discuss general development concepts, long-range planning issues and policies for the property or vicinity, and specific application procedures and requirements for a formal application.
 2. **Staff Review.** Upon receipt of a formal application staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) **Complete Application.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure deficiencies. Staff shall schedule complete applications for a public hearing before the Planning Commission. The public hearing shall be scheduled for the next available Planning Commission meeting between 15 to 60 days of the determination of a complete application.
 3. **Planning Commission Public Hearing.** Planning Commission shall review the application according to the criteria in this section. At the close of the public hearing the Planning Commission shall:
 - (a) Recommend to the City Council that the application be approved;
 - (b) Recommend to the City Council that the
- (b) **Notice.** Prior to the Planning Commission public hearing the following notice shall occur:
- (1) **Posted Notice.** Staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.
 - (2) **Published Notice.** Notice shall be published in a newspaper of general circulation at least 15 days but no more than 21 days prior to the scheduled Planning Commission review indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Planning Commission review.
 - (3) **Mailed Notice.** All owners within 140' of subject property shall be mailed notice indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Planning Commission public hearing. When mailed notice is properly addressed based on the latest property information and deposited in the mail at least 15 days prior to the scheduled hearing, failure of a party to receive such notice will not be grounds to invalidate any action taken.
- (c) **Comments.** At least 5 working days prior to the Planning Commission public hearing, staff shall forward formal comments on the application to the Planning Commission, including any external agency comments. A copy of the comments shall be submitted to the applicant at this time.

- application be approved with specific conditions or modifications;
- (c) Recommend to the City Council that the application be denied, and state the specific reasons for denial;
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The continued hearing shall occur at the next Planning Commission regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once by the Planning Commission without the applicant's consent.
4. *City Council Review.* Upon a recommendation from the Planning Commission, the application shall be scheduled for review by the City Council according to the following:
- (a) *First Reading.* At the first regular meeting after the Planning Commission recommendation, the City Council shall conduct the first reading on the application. After the first reading, the Council shall schedule a public hearing on the application at either a regular meeting, a special meeting, or a committee meeting, at the Council's discretion. Notice shall be provided according the same requirements for the Planning Commission public hearing.
 - (b) *Second Reading.* At least 15 days but no more than 35 days after the Planning Commission recommendation the Council shall hold a public hearing on the application. Upon the close of the public hearing on the application the City Council, or Council Committee if the hearing is at a committee meeting, shall conduct a second reading.
 - (c) *Final Reading.* At the first regular meeting, after the Second Reading, the City Council shall conduct the final reading on the application. The council shall:
 - (1) Approve the application;
 - (2) Approve the application with specific conditions or modifications;
 - (3) Deny the application, and state the specific reasons for denial; or
- (4) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The continued hearing shall occur at the next City Council regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once by the City Council without the applicant's consent.
5. *Protest Petition.* A formal protest may be filed with the City Clerk opposing the application. A formal protest shall be signed by at least 20% of the area within the subject area, or at least 20% of the owners within 140 feet of the subject area boundaries. The application shall be filed in sufficient time for the City Clerk to determine the validity of the application prior to the close of the public hearing at the City Council. Upon a determination of a valid formal protest, the City Council shall only approve the application upon the affirmative vote of at least $\frac{3}{4}$ of all of the members of the City Council.
6. *Effect of Decision.* The decision by the City Council is the final decision. Upon approval of a zoning map amendment, the change shall be effective on the date of approval, or any other specific date in the ordinance approving the amendment.
- d. *Review Criteria.* In reviewing, providing comments, and making recommendations and decisions on a proposed zoning map amendment, the staff, Planning Commission and City Council shall use the following criteria:
- 1. The application is in accordance with the development policies and physical patterns identified in the comprehensive plan.
 - 2. The application is compatible with nearby property, specifically considering existing zoning, the comprehensive plan, and any other official plans and policies created under the guidance of that plan for these areas;
 - 3. The suitability of the subject property for development according to the standards and uses of the existing

zoning district, compared to the suitability of the subject property for development according to the standards and uses of proposed zoning district;

4. The ability of the subject property and surrounding vicinity to be developed according to the Subdivision Standards in Article 4 considering the proposed zoning;
5. The ability of the application to support the Intent and Applicability statements of the proposed zoning districts, and achieve the Design Objectives of any specific standards.
6. The ability of all potential future development to meet all applicable standards for development in the proposed zoning district, including other development options in the event that any specific development proposed in association with the application is not executed after approval.
6. The review and recommendations of other reviewing bodies.
7. Whether the application will harm the public health, safety, or general welfare.

2.2.2 Planned Development - Regulating Plan or Development Master Plan

- a. **Intent.** The planned development process is intended for developments that require a higher degree of specific planning based on the complexity of the development, the difficulty of integrating development into the site or vicinity, and the degree of flexibility desired from generally applicable development standards.
- b. **Applicability.** The planned development procedures are applicable to applications that use the PUD zoning district or the Form-based Code standards in Article 7. An application for a planned development may be initiated by:
 1. The City Council on its own initiative;
 2. The Planning Commission or staff through a petition to the City Council, signed by the Chair of the Planning Commission or Director respectively; or
 3. The property owner(s), signed by the owner(s) or authorized agent of at least 50% of all property within the area proposed to be rezoned, measured by both area and assessed value.
- c. **Specific Procedures.** A planned development has the following specific procedures:

1. **Pre-application Meeting.** Prior to submittal of an application the applicant shall schedule at least 1 pre-application meeting with the staff to discuss the subject property, long-range plans affecting the property and vicinity, general development concepts and goals anticipated to be part of an application, and procedures associated with executing a specific plan to guide future development.
2. **Conceptual Planning Meeting.** Prior to submitting a formal application and specific plan, at least one conceptual plan meeting shall be conducted by the applicant. This meeting shall require incorporation of the interests of surrounding property owners and the general public by either an invitation for participation of these individuals in the meeting, or by an opportunity for these individuals to review and comment on the outcomes of this conceptual planning meeting. The appropriate method shall be determined at the pre-application meeting. Additionally, staff shall make a determination on the need for city or other outside agency officials to participate in the conceptual planning meeting. At a minimum, the conceptual planning meeting shall result in the following:
 - (a) An analysis of existing conditions on the site and the vicinity.
 - (b) A narrative statement of the vision, goals and objectives for development concepts to be applied to the property.
 - (c) Identification on how the vision, goals and objectives conform to the comprehensive plan.
 - (d) A proposal for how regulation of the property will be achieved consistent with the purposes, intent, design objectives of any zoning districts proposed for the project.
 - (e) A conceptual site plan identifying concepts on how these regulations will apply to the property, including the intensity and allocation of general uses on the site, and relationships to adjacent property.
 - (f) A conceptual site plan identifying development patterns, including potential street networks, open spaces, and access and circulation patterns, and relationship to adjacent property.
 - (g) One or more illustrations indicating the general urban design and architectural character sought for the plan, or for each sub-area of the plan where the character will differ.

3. *Staff Review.* Following the Conceptual Planning Meeting the applicant may submit a formal application. The application shall include a preliminary development plan or program containing concepts, standards and phasing for the full build out of the subject property. Upon receipt of a formal application staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) *Complete Application.* Within 10 working days of submittal of the application, staff shall determine whether the application is complete according to official submittal requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving direction and deadlines to cure the deficiencies. Staff shall schedule complete applications for a public hearing before the Planning Commission. The public hearing shall be scheduled for the next available Planning Commission meeting between 15 and 60 of the determination of a complete application.
 - (b) *Notice.* Prior to review by the Planning Commission the following notice shall occur:
 - (1) *Posted Notice.* Staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.
 - (2) *Published Notice.* Notice shall be published in a newspaper of general circulation at least 15 days but no more than 21 days prior to the scheduled Planning Commission review indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Planning Commission review.
 - (3) *Mailed Notice.* All owners within 140' of subject property shall be mailed notice indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Planning Commission public hearing. When mailed notice is properly addressed based on the latest property information and deposited in the mail at least 15 days prior to the scheduled public hearing, failure of a party to receive such notice will not be grounds to invalidate any action taken
 - (c) *Comments.* At least 5 working days prior to the Planning Commission public hearing, staff shall forward formal comments on the application to the Planning Commission, including any external agency comments. A copy of the comments shall be submitted to the applicant at this time.
4. *Planning Commission Public Hearing.* The Planning Commission shall review the application subject to the criteria in this section. At the close of the public hearing the Planning Commission shall:
 - (a) Recommend to the City Council that the application be approved;
 - (b) Recommend to the City Council that the application be approved with specific conditions or modifications.
 - (c) Recommend to the City Council that the application be denied, and state the specific reasons for denial;
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The continued hearing shall occur at the next Planning Commission regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once by the Planning Commission without the applicant's consent.
5. *City Council Review.* Upon a recommendation from the Planning Commission, the application shall be scheduled for review by at the City Council according to the following:
 - (a) *First Reading.* At the first regular meeting after the Planning Commission recommendation, the City Council shall conduct the first reading on the application. After the first reading, the Council

shall schedule a public hearing on the application at either a regular meeting, a special meeting, or a committee meeting, at the Council's discretion. Notice shall be provided according the same requirements for the Planning Commission public hearing.

- (b) *Second Reading.* At least 15 days but no more than 35 days after the Planning Commission recommendation the Council shall hold a public hearing on the application. Upon the close of the public hearing on the application the City Council, or Council Committee if the hearing is at a committee meeting, shall conduct a second reading.
- (c) *Final Reading.* At the first regular meeting at least 7 days after the Second Reading the City Council shall conduct the final reading on the application. The council shall:
 - (1) Approve the application;
 - (2) Approve the application with specific conditions or modifications;
 - (3) Deny the application, and state the specific reasons for denial; or
 - (4) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The continued hearing shall occur at the next City Council regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once by the City Council without the applicant's consent.
- 6. *Protest Petition.* A formal protest may be filed with the City Clerk opposing the application. A formal protest shall be signed by at least 20% of the area within the subject area, or at least 20% of the owners within 140 feet of the subject area boundaries. The application shall be filed in sufficient time for the City Clerk to determine the validity of the application prior to the close of the public hearing at the City Council. Upon a determination of a valid formal protest, the City Council shall only approve the application upon the affirmative vote of at least $\frac{3}{4}$ of all of the members of

the City Council.

- 7. *Effect of Decision.* The City Council decision is the final decision. Approval of the planned development shall constitute a zoning map amendment for the property in the approved plan, subject to the specific zoning proposed with the plan. When the planned development application meets all of the submittal requirements and standards for a preliminary plat, approval of the development plan may also constitute acknowledgement and approval of a preliminary plat. Development of the property shall occur according to any administrative plat, final plat, site plan, or other specific procedures proposed as part of the development plan.
- d. *Review Criteria.* In reviewing, providing comments, and making recommendations and decisions on a proposed planned development the staff, Planning Commission and City Council shall use the following criteria:
 - 1. The application meets all threshold requirements for application of the PUD District or Form-based Code standards.
 - 2. The application presents clear and specific criteria on how the property and subsequent development will be reviewed, regulated and modified consistent with these regulations.
 - 3. The application is in accordance with the development policies and physical patterns identified in the comprehensive plan.
 - 4. The application reflects sound planning and urban design principles with respect to existing and potential future development in the vicinity, including consideration of current and future streets, open spaces, blocks and lots, and public utilities or facilities.
 - 5. The application meets the purposes, intent, and all applicable standards in Article 4.
 - 6. Any phasing proposed in the application is clearly indicated and demonstrates a logical and well-planned development pattern. This may include consideration of amenities and public facilities of the subdivision within each phase compared to the anticipated timing or the likelihood of future phases being constructed as planned.
 - 7. The impacts identified in specific studies or technical reports that were prepared or requested to be prepared in association with the application, and whether the findings and recommendations of these reports, or any modifications or conditions on approval of the

application, can mitigate these impacts.

8. The application is compatible with nearby property, specifically considering existing zoning, the comprehensive plan, and any other official plans and policies created under the guidance of that plan for these areas;
9. The suitability of the subject property for development according to the standards and uses of the existing zoning district, compared with the suitability of the subject property for development according to the standards and uses of proposed zoning district;
10. The ability of the application to support the Intent and Applicability statements of the proposed zoning districts, and achieve the Design Objectives of any specific standards.
11. The ability of all potential future development to meet all applicable standards for development in the proposed zoning district, including other development options in the event that any specific development proposed in association with the application is not executed after approval.
12. Whether the planning and urban design concepts, and any proposed deviation from or alternative to otherwise applicable development standards, result in clear public benefits, as opposed to benefits to existing or future land owners in the development.
13. The review and recommendations of other reviewing bodies.
14. Whether the application will harm the public health, safety, or general welfare.

2.2.3 Site Plan

- a. **Intent.** The site plan process is intended to coordinate development projects with public improvements and with adjacent sites. Specifically it is intended to demonstrate that new development meets the development and design standards of these regulations.
- b. **Applicability.** An application for a site plan may be submitted by the owner or authorized agent where:
 1. Any new use or a new building.
 2. Alterations to the site affecting over 15% of the non-building area of the site (examples include changes to parking, or open space and landscape areas)
 3. Any other development activity or change of use that triggers applicability and compliance with any of the Design Standards in Article 6.
4. Any other development activity or change of use that triggers improvements in the public right-of-way and applicability and compliance with any of the Standards in Article 4.
5. No site plan is required for single family, duplex, or townhome development, except when associated with a Regulating Plan or Development Master Plan.
- c. **Specific Procedures.** An application for a site plan has the following specific procedures:
 1. **Pre-application Conference.** Prior to submittal of an application the applicant should schedule at least 1 pre-application meeting with the staff to discuss the eligibility of the application for site plan approval. Staff and the applicant shall discuss planning and urban design issues, and specific application procedures and requirements for a formal application.
 2. **Staff Review.** Upon submittal of a formal application, staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) **Complete Applications.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure the deficiencies. Staff shall schedule complete applications for formal internal review subject to the criteria in this section.
 - (b) **Posted Notice.** Prior to a final decision, the applicant shall ensure that 1 sign for each road frontage shall be posted on the property for at least 7 days prior to a final decision indicating the nature of the application and the location for further information on that application. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.
 - (c) **Final Decision.** Upon review according to the criteria in this section, and between 7 and 30 days of the determination of a complete application, the Director shall take one of the following actions:
 - (1) Approve the application;

- (2) Approve the application with modifications or conditions. Modifications or conditions shall only be to better meet the standards and review criteria;
 - (3) Deny the application and state the specific reasons for denial; or
 3. *Effect of Decision.* The decision of the Director is the final decision and shall be given to the applicant in writing. Approval of the application shall be valid for up to 2 years. Any application that has not been acted upon within 2 years from approval shall be void. Denial of the application shall prohibit any activity on the plan, except that an application may be submitted to correct any specific deficiencies in the denied plan. The final decision may be appealed to the Board according to the criteria and procedures for appeal or an administrative decision in Section 2.3.3.
 - d. **Review Criteria.** In reviewing and making decisions on a proposed site plan approval, the Director shall use the following criteria:
 1. The proposed application is consistent with any approved plat.
 2. The proposed application is adequately served by public services, or where not presently adequately served such service is either proposed in association with the plan or will be provided in coordination with development through a capital improvements projects.
 3. The proposed application supports the Intent and Applicability statements of the proposed zoning district, and meets and achieves the Design Objectives of any specific standards. Any proposed relief from applicable standards shall done according to the procedures and criteria offered in different sections of these regulations.
 4. The proposed application is consistent with any previously approved Regulating Plan or Development Master Plan. Minor deviations from those plans shall only occur as otherwise authorized by these regulations or as authorized in those specific plans.
 5. The proposed application contains no public health, safety or general welfare concerns that would warrant further consideration of this application by the Planning Commission.
 6. Any review and recommendations of other reviewing bodies supports these findings.
- ### 2.2.4 Conditional Use Approval
- a. **Intent.** A conditional use approval process is intended to provide flexibility for different uses within a zoning district, and specifically allow the potential for additional uses that due to their varying design and operational characteristics may not be generally appropriate in a zoning district, but require case-specific review to determine the compatibility of the use, the associated site design, and the operational characteristics with surrounding uses and development patterns.
 - b. **Applicability.** An application for a conditional use may be initiated by the property owner or authorized agent for any use within an existing zoning district permitted as "conditional" in these regulations.
 - c. **Specific Procedures.** Conditional use approval has the following specific procedures:
 1. *Pre-application Conference.* A pre-application conference is not required for conditional use approval, but may be used to discuss planning and urban design issues, and specific application procedures and requirements for a formal application.
 2. *Staff Review.* Upon receipt of a formal application staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) *Complete Application.* Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure deficiencies. Staff shall schedule complete applications for a public hearing before the Board of Adjustment. The public hearing shall be scheduled for the next available Board meeting between 15 and 60 days of the determination of a complete application.
 - (b) *Notice.* Prior to review by the Board the following notice shall occur:
 - (1) *Posted Notice.* Staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each

road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.

(2) *Mailed Notice.* All owners within 140' of subject property shall be mailed notice indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Board public hearing. When mailed notice is properly addressed based on the latest property information and deposited in the mail at least 15 days prior to the scheduled hearing, failure of a party to receive such notice will not be grounds to invalidate any action taken.

(c) *Comments.* At least 5 working days prior to the Board public hearing, staff shall forward formal comments on the application to the Board, including any external agency comments. A copy of the comments shall be submitted to the applicant at this time.

3. *Board Public Hearing.* The Board shall review the application subject to the criteria in this section. Upon the close of the public hearing, the Board shall:

- (a) Approve the application;
- (b) Approve the application with specific conditions or modifications;
- (c) Deny the application, and state the specific reasons for denial; or
- (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The continued hearing shall occur at the next Board of Adjustment regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once by the Board without the applicant's consent.

3. *Effect of Decision.* The decision by the Board shall be final. Approval by the Board shall be valid for 1 year.

Any application that has not established the use within one year from approval shall be void. Actions to establish use include building permits, certificate of occupancy, business licenses or commencement of other administrative processes necessary under City ordinance that demonstrate a substantial investment. Denial of the application shall bar any application for a conditional use that is not substantially different for at least 1 year. Any person aggrieved by a final decision of the Board may appeal the decision as provided in the Wyoming State Statutes.

d. *Review Criteria.* In reviewing, providing comments, and making recommendations and decisions on a proposed Conditional Use Approval, the staff and Board of Adjustment shall use the following criteria:

1. The specific application of the use to the site is compatible with the character of the surrounding area in terms of building scale, building form, landscape, and site design;
2. The operating characteristics of the use are complimentary to the character of the surrounding area in terms of hours of operation, visible and audible impacts, and traffic patterns caused by the use;
3. The suitability of the subject property for the use, compared with the suitability of the subject property for other uses permitted by right in the zoning district;
4. The specific application of the use to the site meets or exceeds the standards of the applicable zoning district. In meeting this criteria, the reviewing body may consider additional design standards in these regulations that are otherwise not applicable in the zoning district, but which based on the Design Objectives associated with the standard are relevant and comparable to the specific situation;
5. The specific application of the use to the site supports the Intent and Applicability of the zoning district, and does not compromise the Intent and Applicability of any adjacent zoning districts.
6. The long range plans applicable to the site and surrounding areas, including the permanence of the proposed use in relation to the permanence of the surrounding uses in the area, and whether the proposed use is consistent with any changes in character occurring in the area.
7. The review and recommendations of other reviewing bodies.

8. Whether any additional site-specific conditions associated with the application are sufficient to prevent any potential harm to the public health, safety, or general welfare.

2.2.5 Administrative Use Approval

- a. **Intent.** An administrative use approval is intended to provide flexibility for different uses within a zoning district, and specifically allow the potential for additional uses that due to their varying design and operational characteristics may not be generally appropriate in a zoning district, but require case-specific review to determine the compatibility of the use, the associated site design, and the operational characteristics with surrounding uses and development patterns.
- b. **Applicability.** An application for a administrative use may be initiated by the property owner or authorized agent for any use within an existing zoning district permitted as "administrative" in these regulations.
- c. **Specific Procedures.** An application for Administrative Use Approval has the following specific procedures:
 1. **Pre-application Conference.** Prior to submittal of an application the applicant shall schedule at least 1 pre-application meeting with the staff to discuss the eligibility of the application for administrative approval. Staff and the applicant shall discuss planning and urban design issues, and specific application procedures and requirements for a formal application.
 2. **Staff Review.** Upon submittal of a formal application, staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) **Complete Applications.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure the deficiencies. Staff shall schedule complete applications for formal internal review subject to the criteria in this section.
 - (b) **Posted Notice.** Prior to a final decision, staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.
 - (c) **Final Decision.** Upon review according to the criteria in this section, and between 7 and 15 days of the determination of a complete application, the Director shall take one of the following actions:
 - (1) Approve the application; or
 - (2) Deny the application and state the specific reasons for denial;
3. **Effect of Decision.** The decision of the Director is the final decision and shall be given to the applicant in writing. Approval of the application shall be valid for up to 1 year. Any application that has not established the use within 1 year from approval shall be void. Actions to establish use include building permits, certificate of occupancy, business licenses or commencement of other administrative processes necessary under City ordinance that demonstrate a substantial investment. Denial of the application shall bar any application for an administrative use that is not substantially different for at least 1 year. The final decision may be appealed to the Board according to the criteria and procedures for appeal or an administrative decision in Section 2.3.3.
- d. **Review Criteria.** In reviewing, providing comments, and making decisions on a proposed administrative use approval, the staff shall use the following criteria:
 1. The specific application of the use to the site is compatible with the character of the surrounding area in terms of building scale, building form, landscape, and site design;
 2. The operating characteristics of the use are complimentary to the character of the surrounding area in terms of hours of operation, visible and audible impacts, and traffic patterns caused by the use;
 3. The suitability of the subject property for the use, compared with the suitability of the subject property for other uses permitted by right in the zoning district;
 4. The specific application of the use to the site meets or exceeds the standards of the applicable zoning

district. In meeting this criteria, the reviewing body may consider additional design standards in these regulations that are otherwise not applicable in the zoning district, but which based on the Design Objectives associated with the standard are relevant and comparable to the specific situation;

5. The specific application of the use to the site supports the Intent and Applicability of the zoning district, and does not compromise the Intent and Applicability of any adjacent zoning districts.
6. The long range plans applicable to the site and surrounding areas, including the permanence of the proposed use in relation to the permanence of the surrounding uses in the area, and whether the proposed use is consistent with any changes in character occurring in the area.
7. The review and recommendations of other reviewing bodies.

2.2.6 Temporary Use Approval

- a. **Intent.** A temporary use approval is intended to provide flexibility for different uses within a zoning district, and specifically allow the potential for uses are not be generally appropriate in a zoning district, but due to the short duration, special conditions relative to the specific site, and other case-specific issues may be acceptable for a short and limited time.
- b. **Applicability.** An application for a temporary use may be initiated by the property owner or authorized agent for any use within an existing zoning district that is not otherwise allowed, will not last longer than 30 consecutive days, will not occur more than twice in a single calendar year, and will have at least 90 days between consecutive occurrences.
- c. **Specific Procedures.** An application temporary use approval has the following specific procedures:
 1. **Pre-application Conference.** A temporary use shall require a pre-application conference. The applicant shall submit a short statement of the temporary use and an adequate site plan demonstrating all facilities associated with the temporary use, and their relation to surrounding property. Staff and the applicant shall discuss any planning and site design issues associated with the use.

2. **Staff Review.** Upon submittal of a formal application, staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment. Upon review according to the criteria in this section, and within 7 days of the determination of a complete application, the Director shall take one of the following actions and inform the applicant in writing:
 - (1) Approve the application;
 - (2) Deny the application and state the specific reasons for denial;
3. **Effect of Decision.** The decision of the Director shall be final. Approval of the use shall require that a permit be displayed on the property for the duration of the use and must show the effective date and expiration of the permit. The final decision may be appealed to the Board according to the criteria and procedures for appeal and administrative decision in Section 2.3.3.

- d. **Review Criteria.** In reviewing and making decisions on a proposed temporary use approval, the Director shall use the following criteria:
 1. The specific application of the use to the site results in no new permanent facilities that are not otherwise allowed in the zoning district;
 2. The operating characteristics of the use are complimentary to the character of the surrounding area in terms of hours of operation, visible and audible impacts, and traffic patterns caused by the use;
 3. The suitability of the subject property for the use, compared with the suitability of the subject property for other uses permitted by right in the zoning district;
 4. The relation of the use to other existing uses on the site, including whether the site is being actively used;
 5. The specific application of the use to the site supports the Intent and Applicability of the zoning district, and does not compromise the Intent and Applicability of any adjacent zoning districts.
 6. The duration of the proposed use relevant to the applicability requirements of this section.

2.3 APPEALS AND RELIEF

- 2.3.1 Subdivision Standard Waiver
- 2.3.2 Zoning Variance
- 2.3.3 Appeal of Zoning Administrative Decision
- 2.3.4 Administrative Adjustments

2.3.1 Subdivision Standard Waiver

a. **Intent.** A subdivision standard waiver is intended to provide relief from the strict application of a standard where a different technical or design solution on a specific site would better meet the intent of the regulations or were a new and emerging technical or design solution has proven to achieve better results than the standard.

b. **Applicability.** An application for a subdivision standard waiver may be initiated by the property owner or authorized agent for relief from any technical standards in Article 4. The subdivision waiver may be processed in association with any plat or site plan application.

c. **Specific Procedures.** A subdivision waiver standard has the following specific procedures:

1. **Pre-application Conference.** Prior to submittal of an application the applicant shall schedule at least 1 pre-application meeting with the staff to discuss the eligibility of the application for the waiver.
2. **Staff Review.** Upon submittal of a formal application, staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) **Complete Applications.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure the deficiencies. Staff shall schedule complete applications for formal internal review subject to the criteria in this section.
 - (b) **Final Decision.** Upon review according to the criteria in this section, and after consultation with the Director, the City Engineer shall take one of the following actions:
 - (1) Approve the application;

- (2) Approve the application with conditions, modifications or time limits;

- (3) Deny the application and state the specific reasons for denial;

The decision shall be made in conjunction with the decision on any associated plat or site plan, or where not associated with a plat or site plan the decision shall be made within 15 working days of a complete application.

3. **Effect of Decision.** The decision of the City Engineer is the final decision and shall be given in writing, unless processed in association with a plat or plan, in which case the City Engineer's recommendation shall become part of the record. Approval of the application shall be valid for up to 1 year. If not acted on and recorded within 1 year the approval shall be void. A denial of the application may be appealed to the Planning Commission and City Council according to the same procedures as a final plat.

d. **Review Criteria.** In approving a subdivision standards waiver the City Engineer shall find that the application meets all of the following criteria:

1. The application meets acceptable standards of practice for engineering, operation and safety.
2. The application will not unnecessarily negatively impact the purposes, intent and design objectives of other design standards on the property and on adjacent property.
3. The application equally or better meets the standards for which the waiver is requested, or alternatively applicant demonstrates that the standard for which the waiver requested is applicable to the specific site based on proper engineering, site planning, and urban design practice.
4. The application would not otherwise negatively impact other standards on the site or adjacent sites.
5. The application is supported by documentation that demonstrates that any proposed new technology, innovations, or alternative standards are successful at meeting the purpose and intent of the standard.
6. The application meets the public interest, and is not otherwise prohibited by other city, state or federal laws.
7. The waiver is the minimum necessary to address proper site development and public facility design and construction, including the duration of any temporary waivers if necessary

2.3.2 Zoning Variance

- a. **Intent.** A zoning variance is intended to provide relief from the strict application of a standard where application of the standard to a specific site would create an unnecessary hardship or practical difficulties on all reasonable use of the property.
- b. **Applicability.** An application for a zoning variance may be initiated by the property owner or authorized agent for relief from any zoning standards in Article 5, Article 6, or Article 7 of these standards. Zoning variances are not applicable to vary the use allowed on property.
- c. **Specific Procedures.** A zoning variance has the following specific procedures:
 1. **Pre-application Conference.** A pre-application conference is not required for a zoning variance, but may be used to discuss specific application procedures, criteria and requirements for a formal application.
 2. **Staff Review.** Upon receipt of a formal application staff will conduct an internal review and may forward copies of the application to any pertinent external agencies for review and comment.
 - (a) **Complete Application.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure deficiencies. Staff shall schedule complete applications for a public hearing before the Board of Adjustment. The public hearing shall be scheduled for the next available Board meeting between 15 and 60 days of the determination of a complete application.
 - (b) **Notice.** Prior to review by the Board the following notice shall occur:
 - (1) **Posted Notice.** Staff shall provide 1 sign for each road frontage indicating that there is a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.
 - (2) **Mailed Notice.** All owners within 140' of subject property shall be mailed notice indicating the general location of the property, the nature of the application, the location for further information on that application, and the date, time and location of the Board public hearing. When mailed notice is properly addressed based on the latest property information and deposited in the mail at least 15 days prior to the scheduled hearing, failure of a party to receive such notice will not be grounds to invalidate any action taken
 - (c) **Comments.** At least 5 working days prior to the Board public hearing, staff shall forward formal comments on the application to the Board, including any external agency comments. A copy of the comments shall be submitted to the applicant at this time.
 3. **Board Public Hearing.** The Board shall review the application subject to the criteria in this section. Upon the close of the public hearing, the Board shall:
 - (a) Approve the application;
 - (b) Approve the application with specific conditions or modifications;
 - (c) Deny the application, and state the specific reasons for denial; or
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The continued hearing shall occur at the next Board of Adjustment regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once by the Board without the applicant's consent.
 4. **Effect of Decision.** The decision by the Board shall be final and be issued in writing. Approval by the Board shall be valid for 1 year. Any application that has not been acted on within one year from approval shall be void. Acting on the application includes building permits, certificate of occupancy, business licenses

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2.3 APPEALS AND RELIEF

or commencement of other administrative processes necessary under City ordinance that demonstrate a substantial investment. Denial of the application shall bar any application for a variance that is not substantially different for at least 1 year. Any person aggrieved by a final decision of the Board may appeal the decision as provided in the Wyoming State Statutes.

d. **Review Criteria.** In approving a zoning variance the Board shall find that the application meets all of the following criteria:

1. Strict application of the regulation will result in an unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing zoning, as opposed to convenience or benefit of the applicant or a specific application;
2. The need for the variance is due to specific and unique physical conditions on the site that do not exist on similarly situated land in the area;
3. The manner in which strict application of the regulation deprives the applicant of reasonable use of the land compared to other similarly situated land in the area;
4. The circumstances warranting the variance are not the result of actions by the applicant, or could not be reasonably avoided by actions of the applicant;
5. Granting the variance will not harm the public health, safety and welfare, will not harm the purposes and intent of these regulations, and supports the intent of the zoning district and any design objectives associated with the standards at issue; and
6. The variance requested is the minimum necessary to relieve the hardship and practical difficulties.

2.3.3 Appeal of an Administrative Decision

a. **Intent.** An appeal of an administrative decision is intended to provide an opportunity to be heard and grant relief when a final decision by an administrative official made in interpreting and applying the zoning provisions in these regulations was an error.

b. **Applicability.** An application for an appeal of an administrative decision may be initiated by any person aggrieved by a final administrative decision made by an administrative official interpreting and applying the zoning provisions of these regulations. The appeal shall be:

1. Made in writing and submitted to the Director stating the specifics of the appeal, the grounds for the requested relief, and include all pertinent records of the decision.

2. Made within 14 days of the final decision.
3. Demonstrate that the decision is final and that all other administrative remedies have been exhausted.

c. **Specific Procedures.** An appeal of an administrative decision has the following specific procedures:

1. **Pre-application Conference.** A pre-application conference is not required for an appeal of an administrative decision, but may be used to discuss specific application procedures, criteria and requirements for a formal application.

2. **Staff Review.** Upon receipt of a formal application staff will conduct an internal review and may supplement the application with any additional records on the decision.

- (a) **Complete Application.** Within 5 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure deficiencies. Staff shall schedule complete applications for a public hearing before the Board of Adjustment. The public hearing shall be scheduled for the next available Board meeting between 15 and 60 days of the determination of a complete application.

- (b) **Mailed Notice.** Notice of the appeal shall be mailed to any interested party on record in the decision. When mailed notice is properly addressed based on the latest property information and deposited in the mail at least 15 days prior to the scheduled hearing, failure of a party to receive such notice will not be grounds to invalidate any action taken.

- (c) **Comments.** At least 5 working days prior to the Board public hearing, staff shall forward the application, formal comments, and other pertinent records on the decision to the Board. A copy of the comments shall be submitted to the applicant at this time.

3. **Board Public Hearing.** The Board shall review the application subject to the criteria in this section. Upon the close of the public hearing the Board shall:

- (a) Affirm the decision of the administrative official;
- (b) Affirm the decision of the administrative official with specific conditions or modifications;

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- (c) Overturn the decision of the administrative official and make the decision that the Board determines should be made. No decision of the Board may exceed the authority granted to the administrative official under these regulations; or
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required at the City's expense. The continued hearing shall occur at the next Board of Adjustment regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be tabled more than once by the Board without the applicant's consent.
4. *Effect of Decision.* The decision by the Board shall be final and be issued in writing. Any person aggrieved by a final decision of the Board may appeal the decision as provided in the Wyoming State Statutes.
- d. **Review Criteria.** In reviewing and deciding on an appeal of an administrative decision the Board shall use the following criteria:
- 1. Whether the decision of the administrative official was a clear error, as opposed to fairly debatable, according to the provisions of these regulations.
 - 2. The interpretation instructions of these regulations.
 - 3. The purposes, intent, and design objectives of any standards that are subject to the appeal.
 - 4. The record on the application, including the official plans and policies of the City used to evaluate the application or make the decision.
 - 5. Whether the final decision and the grounds for relief requested in the appeal are within the authority granted by these regulations.
 - 6. Whether there are other more appropriate and applicable procedures to achieve the applicant's proposed objective, such as a plan amendment, text amendment, planned zoning districts, a zoning map amendment, or a variance.
- 2.3.4 Administrative Adjustment**
- a. **Intent.** The administrative adjustment process is intended to provide flexibility for application of specific standards to sites where it is clear that an alternative approach with minor or de minimis modifications of the standards will equally or better meet the purpose, intent or design objectives of these regulations.
- b. **Applicability.** An application for administrative adjustment may be submitted by the owner or authorized agent in association with a minor or major site plan. Administrative adjustments have the following specific eligibility requirements:
- 1. *Alternative Compliance.* Any design or dimension standard in these regulations that specifically includes considerations for alternative compliance subject to the review by the Director, and which gives criteria or parameters for the alternative compliance.
 - 2. *Planned Development Adjustments.* Any minor adjustments for a Form-based Code or PUD, which is not anticipated in the approved preliminary development plan and:
 - (a) increases the proposed density by 5% or less; or
 - (b) reduces the proposed public or common open space by 3% or less; or
 - (c) increases the proposed building footprint by 5% or less;
 - (d) increases the proposed building height by 10% or 3', whichever is less, for buildings within 100' of the plan boundary
 - (e) increases the proposed building height by 20% or 10', whichever is less, for buildings more than 100' from the plan boundary.
 - 3. *Other Minor Adjustments.* Adjustments to any other dimensional or design standard that results in no perceived impact on abutting property and where flexibility in the standards will help promote reuse or rehabilitation of existing buildings and lots.
- c. **Specific Procedures.** Applications for administrative adjustments shall follow the same procedures required for a minor or major site plan. Alternative compliance and minor adjustments to development plans are eligible for review according to the minor site plan provisions, provided that the application otherwise meets the applicability requirements for a minor site plan. All other administrative adjustments shall be processed according to the major site plan procedures.

- d. **Review Criteria.** In considering an administrative adjustment, the Director shall find that all of the following criteria exist:
1. The relief requested is compatible with the character of the surrounding area in terms of building scale, building form, landscape, and site design.
 2. The relief requested supports the Intent and Applicability statements of the zoning districts, and meets and achieves the Design Objectives of any specific standards.
 3. The relief requested is based upon sound planning or urban design principles that are professionally recognized and consistent with the comprehensive plan.
 4. The relief requested is based on the context of the property, is not solely for the convenience of one particular application on the site, and is not generally applicable to other sites in the area.
 5. The relief requested is the minimum necessary to meet the Intent and Applicability of the zoning district and the Intent of the Administrative Adjustment process.
 6. The relief requested does not alter the general concept any preliminary development plan or regulating plan applicable to the property, and specifically preserves the design excellence or outstanding public amenity that was the basis for the PUD or regulating plan.
 7. The relief requested is within any specific bounds of discretion granted by these regulations, or where no such bounds is specified results in only a minor modification of the standard that produces no perceived impact on abutting property.
 8. Any review and recommendations of other reviewing bodies supports these findings.
- b. **Applicability.** The text amendment process is applicable to any change in the provisions of these regulations and may be initiated by:
1. The City Council on its own initiative;
 2. The Planning Commission on its own initiative; or
 3. Staff through a petition of the Planning Commission or City Council, signed by the Director.
- c. **Specific Procedures.** A text amendment shall require the following specific procedures:
1. **Staff Review.** Prior to submittal to the Planning Commission, a text amendment shall require a review and report by Staff. Staff may submit the application to any pertinent outside agencies or other entities for review and comment. Staff shall schedule text amendments for one or more a public hearings at the Planning Commission meeting.
 2. **Published Notice.** Prior to the Planning Commission public hearing(s), staff shall ensure that notice published in a newspaper of general circulation at least 15 days but no more than 21 days prior to the scheduled Planning Commission public hearing indicating the general nature of the text amendment, the location for further information on that application, and the date, time and location of the Planning Commission public hearing.
 3. **Planning Commission Public Hearing.** The Planning Commission shall review the application according to the criteria in this section. Upon the close of the public hearing(s), the Planning Commission shall:
 - (a) Recommend to the City Council that the application be approved;
 - (b) Recommend to the City Council that the application be approved with specific conditions or modifications;
 - (c) Recommend to the City Council that the application be denied, and state the specific reasons for denial;
 - (d) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required. The continued hearing shall occur at the next

2.4 TEXT AMENDMENTS AND ANNEXATIONS

- 2.4.1 Text Amendments
2.4.2 Annexations

2.4.1 Text Amendments

- a. **Intent.** Text amendments are intended to insure that the generally applicable laws contained in the Unified Development Code reflect the broad public interests, long-range planning goals, and general health, safety and welfare of the community.

Planning Commission regular meeting, or at some other time within 60 days with the consent of the applicant. The application shall not be tabled more than once without the consent of the applicant.

4. *City Council Review.* Upon a recommendation from the Planning Commission, the application shall be scheduled for review by the City Council according to the following:

(a) *First Reading.* At the first regular meeting after the Planning Commission recommendation, the City Council shall conduct the first reading on the application. After the first reading, the Council shall schedule one or more public hearings on the amendment at either a regular meeting, a special meeting, or a committee meeting, at the Council's discretion. Notice shall be provided according to the same requirements for the Planning Commission public hearing.

(b) *Second Reading.* Upon the close of the public hearing on the application the City Council, or Council Committee if the hearing is at a committee meeting, shall conduct a second reading.

(c) *Final Reading.* At the first regular meeting at least 7 days after the second reading the City Council shall conduct the final reading on the application. The council shall:

- (1) Approve the application;
- (2) Approve the application with specific conditions or modifications;
- (3) Deny the application, and state the specific reasons for denial; or
- (4) Table the application to collect additional information pertinent to the application or to take the matter under advisement. When tabled for a specific date, time, and location no new notice shall be required. When tabled for an undetermined date, new notice shall be required. The continued hearing shall occur at the next City Council regular meeting, or at some other time within 60 days with the consent of the applicant. The application shall not be tabled more than once without the consent of the applicant.

- d. **Review Criteria.** Review of a text amendment shall be according to the following criteria:

1. The amendment is in accordance with general goals

and policies of the comprehensive plan, or is necessary to address an emerging issue not anticipated in the comprehensive and is not inconsistent with the plan.

2. The amendment is consistent with the Wyoming Statutes, and specifically the Municipal Planning and Zoning statutes.
3. The amendment promotes the general health, safety and public welfare.

2.4.2 Annexations

a. **Intent.** Annexation procedures are intended to provide a review process to change to the boundary of City Limits and include additional land in the City's jurisdiction.

b. **Applicability.** This Annexation process is applicable to any land proposed to be included in the City's jurisdiction except for land that is owned by the City of Cheyenne and where statutory authority allows for an alternative process. Annexation may be initiated by:

1. The City Council on its own initiative;
2. Landowner(s) own initiative; or
3. Staff through a petition of the City Council, signed by the Director.

c. **Specific Procedures.** Any Annexation of land not owned by the City has the following specific procedures:

1. *Pre-application Conference.* A pre-application conference is not required, but is recommended for annexation applications. The pre-application conference may discuss general development concepts, long-range planning issues and policies for the property or vicinity, and specific application procedures and requirements for a formal application.

2. *Complete Application.* Within 10 working days of submittal of the application, staff shall determine whether the application is complete according to official application requirements. Staff shall notify the applicant in writing of any deficiencies in incomplete applications giving directions and deadlines to cure deficiencies. Staff shall schedule complete applications for a public hearing before the City Council.

3. *Notice.* Prior to the City Council public hearing the following notice shall occur:

- (1) *Posted Notice.* Staff shall provide 1 sign for each road frontage indicating that there is

a pending development application. The applicant shall ensure that 1 sign for each road frontage is posted on the property for at least 7 days prior to the decision. When the applicant has made all reasonable and good faith efforts to maintain posted notice, failure of this posted notice will not be grounds to invalidate the application.

(2) *Certified Mailed Notice.* All landowners and affected public utilities within the proposed annexation area shall be mailed certified notice including a summary of the annexation report and the date, time and location of the City Council public hearing. When mailed notice is properly addressed based on the latest property information and deposited in the mail at least 20 business days prior to the scheduled hearing, failure of a party to receive such notice will not be grounds to invalidate any action taken.

(3) *Published Notice.* Notice shall be published twice in a newspaper of general circulation. The first notice shall be given at least 15 business days prior to the City Council public hearing including a summary of the annexation report as described in state statute.

3. *City Council Public Hearing.* City Council shall hear staff findings and take comment from the public. At the close of the public hearing no action is required by City Council.

4. *City Council Resolution.* If the City Council finds that conditions required by W.S. 15-1-402 exist and that required procedures have been met, then City Council may adopt a resolution certifying compliance. In the absence of these findings the resolution should not be adopted and the process ends.

5. *City Council Ordinance.* After the adoption of the resolution the City Council shall adopt an ordinance annexing the territory in the City. The ordinance may include conditions and/or agreements with the applicant.

6. *Effect of Decision.* The decision by the City Council is the final decision. Upon approval of an annexation ordinance, the change shall be effective on the date of

approval, or any other specific date in the ordinance authorizing the annexation.

d. *Review Criteria.* In reviewing, providing comments, and making recommendations and decisions on a proposed annexation, the staff and City Council shall use the required statutory procedures and criteria for annexation.