



PLANNING & ZONING COMMISSION REGULAR MEETING AGENDA

April 29, 2025

7:00 PM

Rifle City Hall - Council Chambers

6:30 PM - Workshop (Meet and Greet with Planning Commission Applicant)

Discussion Introduction of Planning and Zoning Commission candidate.

7:00 PM - Regular Meeting

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Review and Approval of Minutes** Commission to approve minutes for December 2024 to February 2025.
5. **Public Hearing** Requests to amend Article V - Review Procedures, Divisions 1,2,3 and 4 - General Provisions defining the process of amending the City of Rifle's Comprehensive Plan and adding definitions to Article 1 General Provisions, Division 2 - Definitions and Usage for Comprehensive Plan and Comprehensive Plan Amendments.
 - 5.a. **TEXT AMENDMENTS FOR COMPREHENSIVE PLAN AMENDMENTS - 2025-009**
6. **Commission Comments**
7. **Adjournment**

The order and times of agenda items listed above are approximate and intended as a guideline for the Planning Commissioners

ACCESSIBILITY STATEMENT

The City of Rifle values full inclusion and access for all of our facilities, programs, activities and services. We are pleased to provide meaningful accommodations to comply with the Americans with Disabilities Act (ADA) and reasonably provide translation, interpretation, modifications, accommodations, alternative formats, auxiliary aids, and services. To request special assistance, call Administrative Assistant Genesis Amaya at 970-665-6493 or email our ADA Team at ADAteam@riflco.org. Please allow 48 hours for your requests to be met.

La Ciudad de Rifle valora la plena inclusión y acceso para todas nuestras instalaciones, programas, actividades y servicios. Nos complace proporcionar alojamientos significativos para cumplir con la Ley de Estados Unidos con Discapacidades (ADA)

y proporcionar razonablemente traducciones, interpretaciones, modificaciones, adaptaciones, formatos alternativos, ayudas auxiliares y servicios. Para solicitar asistencia especial, llame a la Asistente Administrativa al 970-665-6493 o envíe un correo electrónico a el equipo ADA a ADATeam@riflco.org. Por favor, permita 48 horas para que se atiendan sus solicitudes.

DEPARTMENT OF PLANNING & DEVELOPMENT

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MEMORANDUM

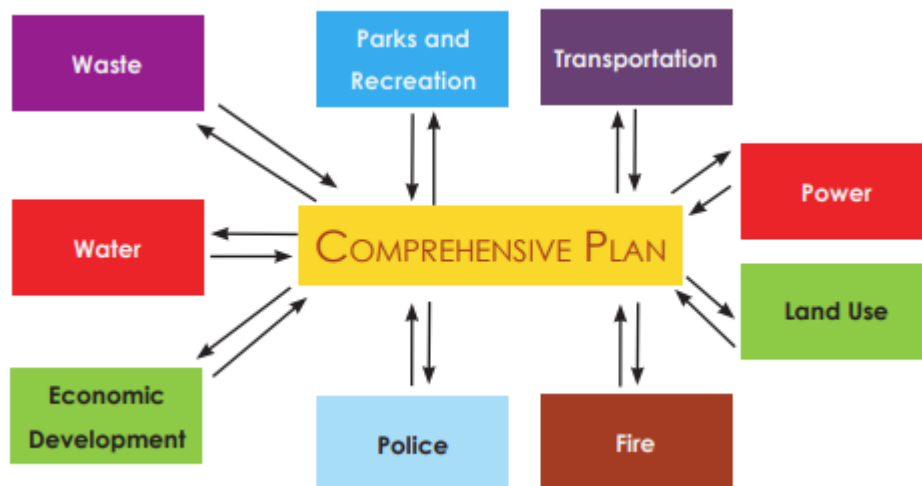
TO: City of Rifle Planning Commission
FROM: Geir H. Sverdrup, Senior Planner
DATE: April 29, 2025
SUBJECT: Comprehensive Plan Definitions and Amendments
ADDRESS: City-Wide
CASE #: Text Amendment 2025-009
APPLICANT: City of Rifle Staff

Background

Chapter 1.3 of the 2019 Rifle-Comprehensive Plan addresses the need and requirement to update the Comp Plan.

The Comprehensive Plan states:

Using the Comprehensive Plan, the City of Rifle Zoning Code requires that the Comprehensive Plan be followed when considering new subdivisions, annexations, Conditional Use Permits, or other land use cases. However, if circumstances have changed, or a Comprehensive Plan land use designation was not well thought out for an individual property, Planning Commission or City Council may modify the Comprehensive Plan when making a decision about an individual development proposal. The reasoning behind modifying the Comprehensive Plan should be clearly stated in the development approvals. However, larger variations from the intent of the Comprehensive Plan and the direction provided by the public should not be made without a wider public process.



Updating the Comprehensive Plan, the Comprehensive Plan should be reviewed every two years by Planning Commission and updated at least every five years. Minor updates to specific areas can occur as needed. Major amendments to the Comprehensive Plan

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should follow the same procedures as this update. The Plan was created through a comprehensive analysis with public input, so major amendments should occur the same way.

To date there has not been a procedure in place to accomplish this requirement. The proposed zoning code amendment defines the Comprehensive Plan and set procedures to process said amendments

Proposed Amendment

(effected sections below, full chapter attached)

Sec. 16-1-220. Definitions.

For purposes of this Chapter, certain terms are defined as follows:

Comprehensive Plan provides the policy framework for regulatory tools such as zoning, subdivision regulations, annexations, and other policies. A comprehensive plan promotes the community's vision, goals, objectives, and policies, establishes a process for orderly growth and development, addresses both current and long-term needs, and provides for a balance between the natural and built environment. Elements addressed in a comprehensive plan must include: a narrative description of the procedure used for the development and adoption of the comprehensive plan, housing action plan, recreation and tourism, strategic growth, tiered growth and water supply. Other elements may include: transportation, land use, economic development, affordable housing, environment, parks and open space, natural and cultural resources, hazards, capital improvements, conservation of water supply, sustainability, energy, and urban design. Comprehensive plans should be updated approximately every five (5) years.

Comprehensive Plan Amendment is a request from a property owner to amend or change the text or maps of any required element(s) of the adopted comprehensive plan. Comprehensive plan amendments shall follow the process as required in Art. V Review Procedures.

ARTICLE V Review Procedures

Division 1 General Provisions

Sec. 16-5-40. Submittal of development applications.

- (a) Any property owner desiring to establish a land use pursuant to this Chapter shall first submit a development application form, which shall contain: the name of the property owner, the name of the applicant if different, the legal description of the real property and a list of all land use reviews desired by the property owner as required by this Code, including but not limited to pre-annexation agreements, annexations, **comprehensive plan amendments**, subdivisions (including minor and major subdivision sketch plans, subdivision preliminary plans, subdivision combined sketch/preliminary plans, minor and major subdivision final plans and

DEPARTMENT OF PLANNING & DEVELOPMENT

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condominiumizations), amended plats, planned unit developments (including preliminary PUD development plans, PUD site plans and final PUD development plans), site specific development plans/vested rights, site plans, conditional use permits, lot line adjustments or dissolutions, plat vacations, variances, zone text amendments, zoning, and rezoning, with the land uses desired by the property owner indicated. The property owner shall pay the amount set forth in Appendix A to this Code, upon submittal of the development application form. A development application shall be appurtenant to the property and shall be transferable with the property.

- (b) Upon payment of the required fee, the completed development application form shall be deemed a development application as defined in this Chapter, which development application shall include all phases of the project and every subsequent stage of review required by this Code. A property owner who submitted a development application form shall have one (1) year from the date of submittal in which to commence the additional steps, or the initial step if applicable, for the land use reviews indicated on the development application form.
- (c) Any applicant with a land use review application filed pursuant to this Chapter pending before the City as of August 23, 2000 shall be considered to have submitted a development application, as defined in this Chapter, which development application shall include all phases of the project and every subsequent stage of review required by this Code.
- (d) Comprehensive Plan Amendments shall submit a valid development application, as defined herein, including a conceptual land use plan. Application shall include an analysis for the basis of the proposed land use designation. Such analysis shall include a market analysis comparing the current land use designation with the proposed land use designation. Application shall include an analysis of development Tier level if the proposal alters current Tier designation.
- (de) Sketch plan, preliminary plan and final plan are steps or phases in the subdivision process. A valid development application, as defined herein, for any of these steps or phases shall be construed as a valid development application for all subsequent phases for the entire subdivision process through its conclusion to final plan approval. The subdivision process is also an integral part of the PUD process (See Sections 16-6-190 and 16-6-200 of this Chapter). Therefore, a valid development application for planned unit development shall also be considered a valid development application for purposes of all steps and phases of the subdivision process for the property within such PUD.
- (ef) Nothing in this Section shall be construed as creating any entitlement to the approval of a particular land use review application, and all such applications shall be processed and reviewed to all relevant provisions of this Code and shall be

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subject to approval or denial by the City without regard to this Section, which approval or denial shall be based solely on the provisions of this Code.

Division 3 Planning Commission Review

Sec. 16-5-210. Applicability.

- (a) The Planning Commission will review the following land use applications:
- (1) Major subdivision sketch plans;
 - (2) Major subdivision preliminary plans;
 - (3) Major subdivision combined sketch/ preliminary plans;
 - (4) Major subdivision final plats (at the option of the Planning Commission);
 - (5) Minor subdivision sketch plans;
 - (6) Planned unit developments;
 - (7) Conditional uses;
 - (8) Rezoning;
 - (9) Text amendments to the land use regulations;
 - (10) Site plans for multiple-family dwellings;
 - (11) Creation of condominiums and common interest communities; ~~and~~
 - (12) Annexations;
 - (13) Comprehensive Plan Amendments; and
 - (124) At staff's discretion, vacation of rights-of-way may be taken to the Planning Commission for a recommendation to City Council.
- (b) Unless appealed to the City Council, the Planning Commission review is the only review required for major subdivision sketch and combined sketch/preliminary plans; minor subdivision sketch plans; conditional use applications; and site plans for multiple-dwelling units. The Planning Commission recommends action to the City Council concerning annexations, **comprehensive plan amendments**, PUDs, rezoning applications and text amendments.

Division 4 City Council Review

Sec. 16-5-410. Applicability.

The City Council will review applications for **annexations, comprehensive plan amendments**, rezoning and text amendments to the land use regulations upon completion of the Planning Commission review and recommendation. The City Council will also review Planning Commission decisions pursuant to Sections 16-5-300 and 16-

DEPARTMENT OF PLANNING & DEVELOPMENT

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5-420(c) of this Article. The City Council review is the only review required for final subdivision plans.

Sec. 16-5-420. Public notice and City Council review.

- (a) Applications for **annexations; comprehensive plan amendments**, rezoning, text amendments and planned unit development plans. The City Council will review an application for approval of a rezoning, text amendment or planned unit development plan at its next regularly scheduled meeting date within thirty (30) days of the completion of the Planning Commission review and recommendation. The City Council will conduct a public hearing to review the application.
- (b) Review of Planning Commission decisio...

Findings

Pursuant to RMC Section 16-5-280, the Planning and Zoning Commission shall consider the following criteria when determining whether or not to recommend approval of the text amendments to City Council:

- 1. Conformance of the proposal with the City of Rifle Municipal Code;

The proposal brings the Rifle Municipal Code into compliance with the 2019 Rifle-Comprehensive Plan.

- 2. The compatibility of the proposal with the character of the surrounding area, including but not limited to the architectural character of the neighborhood, the average lot and building sizes in the neighborhood, and the relative value of the proposed structure to the value of other structures in the neighborhood;

Not Applicable

- 3. The desirability for the proposed use in the specific area of the City;

The zoning code is enforced Citywide by appropriate application.

- 4. The potential for adverse environmental effects that might result from the proposed use;

No major adverse environmental effects are anticipated from the proposal.

- 5. Compatibility of the proposed use and the site (or subdivision) plan with the City of Rifle Comprehensive Plan;

This text amendment satisfies the requirements of the Comprehensive Plan.

- 6. The potential impact of the proposed use upon the value of property and buildings within the surrounding area; and

Not applicable.

DEPARTMENT OF PLANNING & DEVELOPMENT

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7. Conformance of the proposal with the approval requirements concerning water and sewer tap availability for high-volume use requests pursuant to 13-4-120 of the Code, if applicable.

Not applicable.

Recommendation

Staff recommends that the Planning and Zoning Commission recommend approval of the proposed text amendments to the Rifle City Council.

(full text attached)

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Sec. 16-1-220. Definitions.

For purposes of this Chapter, certain terms are defined as follows:

Comprehensive Plan provides the policy framework for regulatory tools such as zoning, subdivision regulations, annexations, and other policies. A comprehensive plan promotes the community's vision, goals, objectives, and policies, establishes a process for orderly growth and development, addresses both current and long-term needs, and provides for a balance between the natural and built environment. Elements addressed in a comprehensive plan must include: a narrative description of the procedure used for the development and adoption of the comprehensive plan, housing action plan, recreation and tourism, strategic growth, tiered growth and water supply. Other elements may include: transportation, land use, economic development, affordable housing, environment, parks and open space, natural and cultural resources, hazards, capital improvements, conservation of water supply, sustainability, energy, and urban design. Comprehensive plans should be updated approximately every five (5) years.

Comprehensive Plan Amendment is a request from a property owner to amend or change the text or maps of any required element(s) of the adopted comprehensive plan. Comprehensive plan amendments shall follow the process as required in Art. V Review Procedures.

ARTICLE V Review Procedures

Division 1 General Provisions

Sec. 16-5-10. Compliance.

Any land use activity, as defined in this Chapter, and located within the City, shall be subject to the provisions of these regulations and any other applicable regulations of the City. Any property owner desiring to establish a land use requiring approval of the City must obtain such approval prior to the establishment of the land use. Property owners are required to comply with all provisions of these regulations. (Prior code 17.05.110)

Sec. 16-5-20. General procedures and purpose.

- (a) There are four (4) types of reviews of land use applications. Not every review process is utilized for every application. The first level of review is the staff review which is undertaken for every application. The staff review is the only review required for amended subdivision plats which do not create new lots. The second type of review is the Planning Commission review which encompasses applications for rezoning, conditional uses, subdivisions, planned unit developments and text amendments. The third category of review is the City Council review. The City Council reviews rezoning and text amendment applications as well as appeals of Planning Commission decisions. The fourth classification of review is the Board of Adjustment review. The Board of Adjustment reviews applications for zoning variances and interpretation of the land use regulations. The duties of the Board of Adjustment are hereby transferred to the Planning Commission.
- (b) The purpose of this Article is to prescribe the procedures for the review of land use applications by the City staff, the Planning Commission, the City Council and the Board of Adjustment. (Prior code 17.05.120)

Sec. 16-5-30. Submittal of applications.

Except as otherwise specified in other sections of these regulations, any owner of real property located within the City may apply for the various land uses regulated by this Chapter as such land use applications affect the property owned by the applicant. A representative of the property owner who presents applications must also

present written authorization from the property owner indicating that the applicant is authorized to represent the property owner. The Planning Commission or City Council may also initiate applications for amendments to the zoning map (rezoning) or amendments to the text of these regulations. (Prior code 17.05.130; Ord. 4 §1, 2005)

Sec. 16-5-40. Submittal of development applications.

- (a) Any property owner desiring to establish a land use pursuant to this Chapter shall first submit a development application form, which shall contain: the name of the property owner, the name of the applicant if different, the legal description of the real property and a list of all land use reviews desired by the property owner as required by this Code, including but not limited to pre-annexation agreements, annexations, **comprehensive plan amendments**, subdivisions (including minor and major subdivision sketch plans, subdivision preliminary plans, subdivision combined sketch/preliminary plans, minor and major subdivision final plans and condominiumizations), amended plats, planned unit developments (including preliminary PUD development plans, PUD site plans and final PUD development plans), site specific development plans/vested rights, site plans, conditional use permits, lot line adjustments or dissolutions, plat vacations, variances, zone text amendments, zoning, and rezoning, with the land uses desired by the property owner indicated. The property owner shall pay the amount set forth in Appendix A to this Code, upon submittal of the development application form. A development application shall be appurtenant to the property and shall be transferable with the property.
- (b) Upon payment of the required fee, the completed development application form shall be deemed a development application as defined in this Chapter, which development application shall include all phases of the project and every subsequent stage of review required by this Code. A property owner who submitted a development application form shall have one (1) year from the date of submittal in which to commence the additional steps, or the initial step if applicable, for the land use reviews indicated on the development application form.
- (c) Any applicant with a land use review application filed pursuant to this Chapter pending before the City as of August 23, 2000 shall be considered to have submitted a development application, as defined in this Chapter, which development application shall include all phases of the project and every subsequent stage of review required by this Code.
- (d) **Comprehensive Plan Amendments shall submit a valid development application, as defined herein, including a conceptual land use plan. Application shall include an analysis for the basis of the proposed land use designation. Such analysis shall include a market analysis comparing the current land use designation with the proposed land use designation. Application shall include an analysis of development Tier level if the proposal alters current Tier designation.**
- (~~e~~) Sketch plan, preliminary plan and final plan are steps or phases in the subdivision process. A valid development application, as defined herein, for any of these steps or phases shall be construed as a valid development application for all subsequent phases for the entire subdivision process through its conclusion to final plan approval. The subdivision process is also an integral part of the PUD process (See Sections 16-6-190 and 16-6-200 of this Chapter). Therefore, a valid development application for planned unit development shall also be considered a valid development application for purposes of all steps and phases of the subdivision process for the property within such PUD.
- (~~f~~) Nothing in this Section shall be construed as creating any entitlement to the approval of a particular land use review application, and all such applications shall be processed and reviewed to all relevant provisions of this Code and shall be subject to approval or denial by the City without regard to this Section, which approval or denial shall be based solely on the provisions of this Code. (Prior code 17.05.140; Ord. 4 §1, 2005)

Sec. 16-5-50. Applications of public utilities for major public facilities.

- (a) The purpose of this Section is to provide procedures necessary to implement the provisions of Section 29-20-108, C.R.S., which purports to require local government action on applications of public utilities for major public facilities within ninety (90) days after submission of a land use application if no preliminary approval is required, or within one hundred twenty (120) days if preliminary approval is required. By the passage of the initial ordinance codified herein, the City Council intends only to provide the procedures necessary to implement the provisions of that legislation. The City Council finds and determines that land use and development is a matter of particularly local concern, and the findings to the contrary contained in Section 29-20-108, C.R.S., are in error and entitled to no weight or consideration. Nothing contained in this Section shall constitute an admission by the City that the Colorado Legislature acted within the scope of its constitutional authority in the passage of the above-referenced legislation, nor shall it be construed as an admission that this legislation applies to a home rule municipality.
- (b) The City shall take final action approving, with or without modification, or denying the application of a public utility providing electric or natural gas service that relates to the location, construction or improvement of major electrical or natural gas facilities, as defined in Section 29-20-108(3), C.R.S., within ninety (90) days after submission of a land use application if no preliminary approval is required, or within one hundred twenty (120) days if preliminary approval is required. Public hearings, public meetings and staff reviews shall be scheduled accordingly. Special meetings shall be convened if necessary to comply with this provision. The applicant may agree to waive the time limits set forth in this Section. (Prior code 17.05.150)

Division 2 City Staff Review

Sec. 16-5-110. Applicability.

All land use applications and requests for zoning variances or interpretations of the land use regulations are initially submitted to the Planning Department. The Planning Department staff will coordinate the review of the applications among the City staff, the Planning Commission, the City Council and the Board of Adjustment as appropriate. (Prior code 17.05.210)

Sec. 16-5-120. Preapplication conference.

Applicants for all land use applications are required to meet with the Planning Department staff to review the proposed development or rezoning prior to submittal of an application. The purpose of the preapplication conference is to familiarize the applicant with the City's requirements, procedures, policies and Comprehensive Plan before substantial commitments of time and money are made in the preparation of plans, surveys, engineering reports or other studies. The applicant is responsible for scheduling the preapplication conference with the Planning staff. An applicant for land use activities other than major subdivisions, PUDs or rezoning may also schedule a preapplication conference if the applicant wishes to discuss City requirements and policies prior to submittal of an application. The Planning Department staff has the discretion to waive the preapplication conference. (Prior code 17.05.220; Ord. 4 §1, 2005)

Sec. 16-5-130. Amended or corrected subdivision plats.

The Planning and Development Department staff will review requests for amended subdivision plats which result merely in the adjustment of lot lines or the correction of surveying errors. Such amended plats will be certified by the Public Works Director and recorded in the records of the County Clerk and Recorder. The process for the application and review of amended or corrected subdivision plats is as follows:

- (1) The applicant shall submit a complete application, consisting of those items specified in Article VI of this Chapter to the Planning Department.

- (2) The Planning Director or his or her designee will determine if the application for an amended or corrected subdivision plat is complete. Incomplete applications will not be accepted for review. If the application is complete, the Planning Department staff will refer the application to relevant City departments as well as utility companies serving the property. City departments and the utility providers shall have fifteen (15) days to review the application and return comments and recommendations to the Planning Department. The technical platting requirements of the utility providers and the City staff must be shown on the amended plat.
- (3) Within thirty (30) days of receipt of the complete application for an amended plat, the Planning Director shall approve or deny the application. Approval shall be granted, provided that:
 - a. The amended plat does not result in the creation of additional lots;
 - b. The amended plat does not result in the creation of lots that do not comply with zoning requirements; and
 - c. The requirements of the utility companies serving the property have been satisfied.

The applicant shall be notified in writing of the decision of the Planning Director. In the event of denial of the application, the applicant will be advised of the reasons for the denial.

- (4) After the Public Works Director has certified the amended plat, the plat map and other related documents will be recorded in the office of the County Clerk and Recorder. The cost of recording the plat and associated documents shall be paid by the applicant prior to the documents being tendered for recording. (Prior code 17.05.230; Ord. 4 §1, 2005)

Sec. 16-5-140. Single lot line adjustment or dissolution.

- (a) The Planning Department staff will review requests for lot line adjustments or dissolutions which result solely in the adjustment or dissolution of a single lot line between two (2) conforming lots.
- (b) The applicant seeking approval of a lot line adjustment or dissolution shall submit to the Planning Department a complete application consisting of those items specified in Article VI of this Chapter. The application shall be accompanied by a survey of the boundary adjustment or survey of the lot line to be dissolved, together with the proposed deeds effecting the adjustment or dissolution. The survey shall, at a minimum, bear the certification of a registered land surveyor, contain appropriate legal descriptions, state the name of the original subdivision, show the existing lot line to be adjusted or eliminated, show the new lot line in the case of an adjustment, and state thereon that its purpose is the adjustment or the dissolution of the lot line between specific lots. The applicant shall also submit electronic drawings compatible with the City's GIS system prior to approval of the application. The drawings shall be tied to the current City GIS coordinate system, which has been established in UTM Zone 13. The files may be submitted via e-mail, 3½" floppy diskette, FTP or ZIP disk. The file must be submitted in one (1) of the following formats: compatible CAD drawing (DWG or DXF), compatible shape file, or compatible ESRI file format (e00 or PC ArcInfo coverage).
- (c) The Planning Department staff will determine if the application is complete. Incomplete applications will not be accepted for review. If the application is complete, the Planning Department staff will refer the application to relevant City departments, as well as utility companies serving the property. The City departments and the utility providers shall have fifteen (15) days to review the application and return comments and recommendations to the Planning Department.
- (d) Within thirty (30) days of receipt of the complete application, the Planning Director shall approve or deny the application. Approval shall be granted, provided that:
 - (1) The lot line adjustment or dissolution does not result in the creation of additional lots;
 - (2) The lot line adjustment or dissolution does not result in the creation of lots that do not comply with zoning requirements;

- (3) The lot line adjustment or dissolution does not result in the creation of a lot or lots that cannot be built upon under City requirements;
- (4) The requirements of utility companies serving the property have been satisfied, and easements are appropriately maintained or granted in the deeds effecting the adjustment or dissolution; and
- (5) The lot line adjustment or dissolution does not change the location of any remaining lot lines in the subdivision.

The applicant shall be notified in writing of the decision of the Public Works Director. In the event of denial of the application, the applicant will be advised of the reasons of the denial.

- (e) After the Public Works Director has certified the lot line adjustment or dissolution, the survey and deeds effecting the adjustment or dissolution shall be recorded in the office of the County Clerk and Recorder. The applicant shall pay the costs of recording any documents, which costs shall be paid to the City prior to recording. Within seven (7) days of written notification to the applicant, the Public Works Director shall notify the Planning Commission in writing of the Public Works Director's disposition of the lot line adjustment or dissolution application. Any approved lot line adjustment not effected within six (6) months after the date it was approved shall automatically expire. (Prior code 17.05.235; Ord. 4 §1, 2005)

Sec. 16-5-150. Temporary uses.

- (a) Review. The review process for temporary uses shall be conducted on an administrative level and approved by the Planning Director, excepting those circumstances explicitly stated herein.
- (b) Review criteria. The temporary use permit application, including submittal materials required by Article VI of this Chapter, shall be submitted in writing to the Planning Department. The Planning Department staff will determine if the application is complete. Temporary use permit applications shall be reviewed and approved or denied by the Planning Director within ten (10) working days after receipt of a complete application. In the approval of a temporary use application, the Planning Director shall have authority to require such reasonable conditions as are necessary to protect the public health, safety and general welfare of the citizenry and to ensure that the use, value and quality of the surrounding uses will not be adversely affected. The Planning Director reserves the right to revoke or refuse to grant a renewal of a temporary use permit based upon a demonstration that the permittee has not met any one (1) of the review criteria set forth in Section 16-3-90 of this Chapter.
- (c) Appeals. Any administrative decision, including denials, suspensions and revocations of temporary use permits regulated hereunder, may be appealed to the Planning Commission pursuant to this Code, whose decision may be appealed to the City Council pursuant to this Code. (Ord. 2 §4, 2009; Ord. 8 §3, 2011)

Sec. 16-5-160. Staff recommendations.

- (a) The Planning Department staff will determine if the application is complete. Incomplete applications will not be accepted for review. If the application is complete, the Planning Department staff will refer the application to relevant City departments, as well as utility companies serving the property. The City departments and the utility provider shall have fifteen (15) days to review the application and return comments and recommendations to the Planning Department.
- (b) The Planning Department staff will coordinate the reviews of land use applications and prepare recommendations for the Planning Commission, City Council and Board of Adjustment as appropriate. Public information concerning land use applications will be made available to the applicant and the public at the Planning Department office. (Prior code 17.05.240; Ord. 4 §1, 2005; Ord. 2 §5, 2009)

Division 3 Planning Commission Review

Sec. 16-5-210. Applicability.

- (a) The Planning Commission will review the following land use applications:
- (1) Major subdivision sketch plans;
 - (2) Major subdivision preliminary plans;
 - (3) Major subdivision combined sketch/ preliminary plans;
 - (4) Major subdivision final plats (at the option of the Planning Commission);
 - (5) Minor subdivision sketch plans;
 - (6) Planned unit developments;
 - (7) Conditional uses;
 - (8) Rezoning;
 - (9) Text amendments to the land use regulations;
 - (10) Site plans for multiple-family dwellings;
 - (11) Creation of condominiums and common interest communities; ~~and~~
 - (12) Annexations;
 - (13) Comprehensive Plan Amendments; and
- (124) At staff's discretion, vacation of rights-of-way may be taken to the Planning Commission for a recommendation to City Council.
- (b) Unless appealed to the City Council, the Planning Commission review is the only review required for major subdivision sketch and combined sketch/preliminary plans; minor subdivision sketch plans; conditional use applications; and site plans for multiple-dwelling units. The Planning Commission recommends action to the City Council concerning annexations, comprehensive plan amendments, PUDs, rezoning applications and text amendments.

Sec. 16-5-220. Application.

Applications for land use activities identified in Section 16-5-210 above must be submitted to the Planning Department at least thirty (30) days prior to a regularly scheduled meeting of the Planning Commission. The application shall include all of the items identified in Article VI of this Chapter. Incomplete applications will not be accepted for review. (Prior code 17.05.320)

Sec. 16-5-230. Combined submittal of subdivision sketch plan and preliminary plan.

An applicant, in his or her sole discretion, may elect to combine the major subdivision sketch plan and preliminary plan, in which event the submittal requirements and review procedures for preliminary plan applications shall apply. (Prior code 17.05.321)

Sec. 16-5-240. Minor subdivision application sketch plans.

Minor subdivision sketch plans shall be reviewed by the Planning Commission. Minor subdivision final plans shall be reviewed by the City Council. (Prior code 17.05.322)

Sec. 16-5-250. Determination of completeness.

The Planning Department staff will review the land use application for completeness within five (5) working days of the submittal. If the application is determined to be complete, it will be accepted for review. If the application is incomplete, the applicant will be notified in writing of the information needed to complete the application and the application will be withdrawn from the review process until the required information is submitted. Applications must be complete at least thirty (30) days prior to a regularly scheduled meeting of the Planning Commission. (Prior code 17.05.330)

Sec. 16-5-260. Review and referral of application.

- (a) The application will be reviewed by the Planning Department staff, the appropriate City staff and the City Planning Commission. The City may utilize the services of qualified professionals not on the City staff, as necessary to review an application. The costs of such professional review shall be paid by the applicant per the provisions of Section 16-1-60 of this Chapter.
- (b) Within five (5) business days of receipt of a complete application, the Planning Department staff shall refer the application to appropriate review agencies (including utility providers) for comments on the application. The Planning Department staff will maintain a list of review agencies and their current addresses.
- (c) The review agencies shall have fifteen (15) days from the date of their receipt of the application to return their comments and recommendations to the Planning Department. (Prior code 17.05.340)

Sec. 16-5-270. Public notice and Planning Commission review.

The Planning Commission will review the land use application at a regularly scheduled meeting within ninety (90) days after the submittal of a complete application. The Planning Commission will conduct a public hearing to review the application, with the exception of reviews of final plans if required by Section 16-5-280(b) below. Final plans (if required) will be reviewed at a regular meeting of the Planning Commission. The applicant shall be responsible for providing notice of the public hearing per the requirements of Section 16-1-50 of this Code. (Prior code 17.05.350)

Sec. 16-5-280. Review criteria and Planning Commission decision or recommendation.

- (a) Review criteria. The Planning Commission shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the City staff and comments from the public. At a minimum, the Planning Commission shall also consider the following criteria:
 - (1) Conformance of the proposal with this Code;
 - (2) The compatibility of the proposal with the character of the surrounding area, including but not limited to the architectural character of the neighborhood, the average lot and building sizes in the neighborhood, and the relative value of the proposed structure to the value of other structures in the neighborhood.
 - (3) The desirability for the proposed use in the specific area of the City;
 - (4) The potential for adverse environmental effects that might result from the proposed use;
 - (5) Compatibility of the proposed use and the site (or subdivision) plan with the Comprehensive Plan;
 - (6) The potential impact of the proposed use upon the value of property and buildings within the surrounding area; and

- (7) Conformance of the proposal with the approval requirements concerning water and sewer tap availability for high volume use requests pursuant to Section 13-4-120 of this Code, if applicable.
- (b) Planning Commission decision or recommendation.
- (1) The Planning Commission shall complete its review and make its decision or recommendation to the City Council at the public hearing specified in Section 16-5-270 above. The Planning Commission may approve, conditionally approve or deny the application. In the case of rezoning applications or amendments to the text of the land use regulations, the Planning Commission may recommend that the City Council approve, deny or approve with modifications the application for rezoning or the text amendment. If the application is for a subdivision to be developed in phases, the Planning Commission shall also approve a phasing plan and, if Section 16-5-290(a)(2)b below applies, make a recommendation to the City Council regarding the approval duration for the preliminary plan.
 - (2) The Planning Commission may, as a condition of approval of a major subdivision preliminary plan, require the applicant to submit the final plan of the subdivision to the Planning Commission in order that the Planning Commission can verify that any conditions of approval of the preliminary plan have been complied with. Such a review of a subdivision final plan is at the sole discretion of the Planning Commission and is not a mandatory condition of approval.
 - (3) The Planning Commission may, in its sole discretion, continue the public hearing to another regularly scheduled Planning Commission meeting for the purpose of receiving additional information or public commentary prior to making a decision. In no event shall the public hearing be continued for more than ninety (90) days beyond the date of the initial hearing. The applicant or any other interested party may request a continuation of the public hearing for good cause, shown to the satisfaction of the Planning Commission.
 - (4) The Planning Commission shall only approve or recommend approval of those applications which the Planning Commission finds to be in accordance with the intent, standards and criteria specified in these regulations.
 - (5) The Planning Commission decision or recommendation shall be sent to the City Council indicating any conditions of approval or reasons for denial of an application. A copy of the Planning Commission decision or recommendation shall be maintained in the records of the City and a copy shall be provided to the applicant.
- (c) Record of Planning Commission proceedings. The Planning Commission shall maintain a record of its proceedings in the form of minutes or a written resolution. The record shall include comments of the reviewing agencies and other interested parties, as well as the decision or recommendations of the Planning Commission. A written copy of the minutes or resolution will be made available to any interested party within fifteen (15) days of the conclusion of the public hearing.
- (d) Conditional use permits. The Planning Department staff will issue a record of decision regarding the Planning Commission decision on the conditional use application. A conditional use permit indicating approval of a conditional use application and also indicating any conditions of approval will also be issued by the Planning Commission. Such conditional use permits will be recorded in the real estate records of the County Clerk and Recorder. A copy of the conditional use permit will be provided to the applicant and a copy maintained in the records of the City. (Prior code 17.05.360; Ord. 4 §1, 2005)

Sec. 16-5-290. Duration of application approval.

- (a) Planning Commission approval or conditional approval of a land use application shall remain in effect as follows:
 - (1) Major subdivision sketch plan. Sketch plan approval or conditional approval shall be valid for one (1) year from the date of the decision of the Planning Commission. The applicant must submit a complete application for a preliminary plan within said one-year period to satisfy the requirements of this

Chapter. In the case of applications that have been appealed to the City Council, the approval or conditional approval of the application by the City Council shall be valid for one (1) year from the date of the decision of the City Council.

(2) Preliminary plans.

- a. Major subdivision preliminary plan. Preliminary plan approval shall be valid for one (1) year from the date of the decision of the Planning Commission, unless Subparagraph b below applies. The applicant must submit a complete application for a final plat within said one-year period to satisfy the requirements of this Chapter. In the case of applications that have been appealed to the City Council, the approval of the application by the City Council shall be valid for one (1) year from the date of the decision of the City Council.
- b. Phased major subdivision preliminary plan. A preliminary plan for a major subdivision may have an approval duration of more than one (1) year up to a maximum of five (5) years if the preliminary plan:
 1. Proposes phasing; and
 2. Proposes thirty (30) or more single-family lots, fifty (50) multi-family units and/or five (5) or more industrial or commercial lots.

The City Council will determine the approval duration upon its review of the application for preliminary plan approval pursuant to Section 16-5-420(c) and after consideration of the recommendation of the Planning Commission pursuant to Section 16-5-280(b) above. The applicant must submit a complete application for a final plat within the time periods determined by the City Council to satisfy the requirements of these regulations; provided, however, that upon written request for an extension by the applicant prior to the expiration of such time periods, City staff may extend the approval duration up to one (1) year unless the City Council's approval pursuant to this Section expressly prohibits such extensions. In no event shall the approval duration of a preliminary plan exceed five (5) years.

- c. Preliminary plan referral. If the Planning Commission determines not to take final action on a preliminary plan regardless if it proposes phasing or the number of lots/units proposed, the Planning Commission may refer the preliminary plan to the City Council for review with its recommendation. The City Council shall review the preliminary plan pursuant to Subparagraph b above.
 - d. Combined sketch plan/preliminary plan. The approval of a combined application for a major subdivision sketch plan/preliminary plan shall be valid for one (1) year from the date of the decision of the Planning Commission. The applicant must submit a complete application for a final plat within said one-year period to satisfy the requirements of this Chapter. In the case of applications that have been appealed to the City Council, the approval of the application by the City Council shall be valid for one (1) year from the date of the decision of the City Council.
- (3) Minor subdivision. Minor subdivision sketch plan approval shall remain in effect for a period of one (1) year from the date of the decision of the Planning Commission. The applicant must submit a minor subdivision final plat for City Council review within one (1) year to satisfy the requirements of this Chapter. In the case of a minor subdivision application that has been appealed to the City Council, the approval of the application by the City Council shall be valid for one (1) year from the date of the decision of the City Council.
- (4) Planned unit development. Planned unit development approval or conditional approval is granted only in conjunction with approval or conditional approval of subdivision preliminary plans and final plats. The duration of approval of PUDs is the same as the time periods for approval of a major subdivision preliminary plan as specified in Paragraph (2) above.

- (5) Conditional use. Conditional use permit approval shall be valid for one (1) year from the date of the decision of the Planning Commission or within a longer period determined by the Planning Commission for uses which involve phasing, but in no event longer than five (5) years from the date of approval. The conditional use approval may contain conditions as deemed appropriate by the Planning Commission in approving the permit. Within the one-year period, or other period approved by the Planning Commission, the applicant must either begin construction or establish the land use authorized by the conditional use permit, including any conditions attached to the conditional use approval. For purposes of this Section, *start of construction* shall have the meaning set forth in Section 16-12-30 of this Chapter; provided, however, that the actual start of construction, repair, reconstruction, placement or other improvement must commence within said one-year or other applicable time period, regardless of the date of issuance of the building permit. For purposes of this Section, *establish the land use* shall mean the actual commencement of the use authorized by the conditional use permit. Failure to start construction or establish such use within the one-year or other applicable time period shall result in automatic expiration of the conditional use permit. Once a conditional use is established, any discontinuance of the use for a period of one (1) year, for any reason, shall result in automatic expiration of the conditional use permit, unless otherwise provided in the permit.
 - (6) Rezoning. Approval of a rezoning application shall remain in full force and effect from the effective date of the decision of the City Council to approve the rezoning application.
 - (7) Text amendments to land use regulations. Approval of a text amendment shall remain in full force and effect from the effective date of the decision of the City Council to approve the text amendment.
- (b) The failure of an applicant to comply with the time limits imposed by this Chapter shall result in the expiration of any approvals or conditional approvals granted by the Planning Commission or City Council. The effect of the expiration of an approval or conditional approval is that the applicant must reapply for approval in conformance with all of the provisions of this Chapter. (Prior code 17.05.370; Ord. 4 §1, 2005)

Sec. 16-5-300. Review of Planning Commission decision.

- (a) Appeal of Planning Commission decision. Decisions by the Planning Commission may be appealed by any interested party to the City Council by filing a written appeal within fourteen (14) days following the Planning Commission decision. Appeals of Planning Commission decisions will be considered by the City Council at a public hearing after proper notice of the public hearing is provided pursuant to Section 16-1-50 of this Chapter. The City Council may, by a two-thirds vote of the Council Members present and voting at the public hearing, modify or add conditions to the decision of the Planning Commission, or deny the application. In the case of denial of an application by the Planning Commission, the City Council may overrule such denial by recorded vote of not less than two-thirds (?) of the entire City Council.
- (b) Review of Planning Commission decision by City Council action. The City Council may, within fourteen (14) days of the decision of the Planning Commission, call up for review any decision of the Planning Commission upon:
 - (1) Written request for review submitted to the Mayor by at least three (3) members of the City Council; or
 - (2) A vote of the majority of the Council Members at a regularly scheduled City Council meeting.

A City Council review of a Planning Commission decision will be considered by the City Council at a public hearing after proper notice of the public hearing is provided pursuant to Section 16-1-50 of this Chapter. The City Council may uphold the decision of the Planning Commission, modify or add conditions of approval of the application, or deny the application. In the case of denial of an application by the Planning Commission, the City Council may overrule such denial by recorded vote of not less than two-thirds (?) of the entire City Council.

- (c) Review of Planning Commission decision when acting as Board of Adjustment. In cases when the Planning Commission acts as the Board of Adjustment, as provided in Section 16-5-510, appeals may be taken only to the District Court of the County, and such appeal will be limited to the issue of whether the Planning

Commission has exceeded its jurisdiction or abused its discretion, based upon the evidence in the record before it. (Prior code 17.05.380; Ord. 4 §1, 2005)

Division 4 City Council Review

Sec. 16-5-410. Applicability.

The City Council will review applications for **annexations, comprehensive plan amendments**, rezoning and text amendments to the land use regulations upon completion of the Planning Commission review and recommendation. The City Council will also review Planning Commission decisions pursuant to Sections 16-5-300 and 16-5-420(c) of this Article. The City Council review is the only review required for final subdivision plans. (Prior code 17.05.410)

Sec. 16-5-420. Public notice and City Council review.

- (a) Applications for **annexations; comprehensive plan amendments**, rezoning, text amendments and planned unit development plans. The City Council will review an application for approval of a rezoning, text amendment or planned unit development plan at its next regularly scheduled meeting date within thirty (30) days of the completion of the Planning Commission review and recommendation. The City Council will conduct a public hearing to review the application.
- (b) Review of Planning Commission decision. The City Council will conduct a public hearing to review a Planning Commission decision pursuant to Section 16-5-300 of this Article.
- (c) Review of phased preliminary plans. The City Council will review a preliminary plan for a major subdivision at its next regularly scheduled meeting date within thirty (30) days of the completion of the Planning Commission review and recommendation if the application for approval of the preliminary plan:
 - (1) Proposes phasing; and
 - (2) Proposes thirty (30) or more single-family lots, fifty (50) multi-family units and/or five (5) or more industrial or commercial lots.
- (d) Final subdivision plans. The City Council will review final subdivision plans at a regularly scheduled meeting. A public hearing is not required for review of a final subdivision plan.
- (e) The City Council will review a petition for designation of an historic landmark or district at a regularly scheduled meeting date within thirty (30) days of completion of the Historic Preservation Board review and recommendation. The City Council will conduct a public hearing to review the petition; except that in noticing such hearing, the requirements of Section 16-1-50(1) of this Chapter shall not apply.
- (f) The applicant or appellant shall be responsible for providing notice of any required public hearing per the requirements of Section 16-1-50 of this Chapter. The City Clerk shall provide proper public notice of reviews of Planning Commission decisions initiated by the City Council per the provisions of Section 16-5-300(b) of this Article. (Prior code 17.05.420; Ord. 4 §1, 2005)

Sec. 16-5-430. Review criteria and City Council decision.

- (a) Review criteria. The City Council shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the City staff, recommendations of the Planning Commission and comments from the public. At a minimum, the City Council shall also consider the following criteria:
 - (1) Conformance of the proposal with this Code;
 - (2) The compatibility of the proposal with the character of the surrounding area, including but not limited to the architectural character of the neighborhood, the average lot and building sizes in the

- neighborhood and the relative value of the proposed structure to the value of other structures in the neighborhood;
- (3) The desirability for the proposed use in the specific area of the City;
 - (4) The potential for adverse environmental effects that might result from the proposed use;
 - (5) Compatibility of the proposed use and the site (or subdivision) plan with the Comprehensive Plan; and
 - (6) The potential impact of the proposed use upon the value of property and buildings within the surrounding area.
- (b) City Council decision.
- (1) The City Council shall complete its review and make its decision at the public hearing or meeting specified in Section 16-5-420 above. The City Council may approve, approve with modifications or deny an application.
 - (2) The City Council may, in its sole discretion, continue a public hearing or meeting to another regularly scheduled City Council meeting for the purpose of receiving additional information or public commentary prior to making a decision. In no event shall the public hearing be continued for more than ninety (90) days beyond the date of the initial City Council hearing or meeting. The applicant or any other interested party may request a continuation of the public hearing for good cause, shown to the satisfaction of the City Council.
 - (3) The City Council shall only approve those applications which the City Council finds to be in accordance with the intent, standards and criteria specified in these regulations.
- (c) Record of City Council proceedings. The City Council shall maintain a record of its proceedings in the form of minutes pertaining to review of a Planning Commission decision or by adoption of an ordinance amending the text of the land use regulations or amending a zone district boundary. A written copy of the minutes and/or ordinance will be made available to any interested party upon second reading of an ordinance or upon approval of the minutes of the public hearing.
- (d) Conditional use permits. In the event of a review of a Planning Commission decision concerning the conditional use application, the Planning Department staff will issue a record of decision regarding the City Council decision concerning the conditional use application. A conditional use permit indicating the approval of a conditional use application and also indicating any conditions of approval will also be issued by the Planning Department. Such conditional use permits will be recorded in the real estate records of the County Clerk and Recorder. A copy of the conditional use permit will be provided to the applicant and a copy maintained in the records of the City. (Prior code 17.05.430)

Sec. 16-5-440. City Council review of final subdivision plans.

- (a) Applications.
- (1) Upon completion of the preliminary plan review process or sketch plan process for minor subdivisions, the owner of property proposed to be subdivided shall submit a final subdivision plan to the Planning Department for approval by the City Council; provided, however, that the sketch or preliminary plan approval has not expired per the provisions of Section 16-5-290 above.
 - (2) Applications for final subdivision plans must be submitted to the Planning Department at least thirty (30) days prior to a regularly scheduled meeting of the City Council, or fourteen (14) days for a minor subdivision. The application shall include all of the items identified in Article VI of this Chapter. Incomplete applications will not be accepted for review.
- (b) Determination of completeness. The Planning Department staff will review the land use application for completeness within five (5) working days of the submittal. If the application is determined to be complete, it will be accepted for review. If the application is incomplete, the applicant will be notified of the information

needed to complete the application and the application will be withdrawn from the review process until the required information is submitted. Applications must be complete at least thirty (30) days prior to a regularly scheduled meeting of the City Council for major subdivisions and fourteen (14) days for minor subdivisions.

- (c) Review of final subdivision plan.
 - (1) The application will be reviewed by the Planning Department, the Public Works Department and other appropriate City staff, utility companies serving the proposed subdivision and the City Council. The City may utilize the services of qualified professionals not on the City staff, as necessary to review an application. The costs of such professional review shall be paid by the applicant per the provisions of Section 16-1-60 of this Chapter.
 - (2) The City Council will review the final subdivision plan at a regularly scheduled public meeting within ninety (90) days after receipt of a complete final subdivision plan submission. The City Council will review the final plan to determine that the final plan is consistent with the approved preliminary plan. No final subdivision plan will be approved by the City Council unless all preliminary plan conditions of approval have been met.
- (d) Guarantee of public improvements.
 - (1) The City Council shall not approve any final subdivision plan until a subdivision improvements agreement and related documents, setting forth financial and other arrangements to secure the actual construction of such public improvements that may be required by the City, has been executed between the City and the property owner of the property to be subdivided. The subdivision improvements agreement shall also define responsibility for and describe the terms and stipulations relative to the transfer of water rights from the subdivider to the City as required by this Code. Any public improvements required for a subdivision shall be completed by the developer of the subdivision at the developer's sole expense. All required subdivision public improvements shall be completed within a specific time period, not to exceed one (1) year, from the start of any phase of the development of the subdivision.
 - (2) The developer shall at its expense have "as-built" drawings prepared by a professional engineer and a registered land surveyor, which drawings shall include all legal descriptions the City may require. The developer shall also prepare a summary of the actual construction costs of all public improvements to be dedicated to the City. The "as-built" drawings and costs summary shall be forwarded to the City for review and approval, prior to the release of security given the City by the developer for the completion of the public improvements. Once the "as-built" drawings and costs summary are approved and any and all corrections required by the City are completed, the developer's professional engineer shall certify in writing that all public improvements are in conformity with the plans and specifications with the intent that the City rely on such certification.
- (e) Final subdivision plan approval. The City Council shall approve a final subdivision plan, provided that the application is complete, the provisions of Subsection (d) above have been satisfied, and the final subdivision plan conforms in every way with the conditions of the approval of the preliminary plan, including any phasing plan approved as part of the preliminary plan approval. Approval of major subdivision final plans shall be by ordinance and approval of minor subdivision final plans shall be by resolution of the City Council. The City Council shall further indicate approval of the final subdivision plan by authorizing the Mayor to sign two (2) reproducible (Mylar) final plats of the subdivision and causing the final plat and associated documents, as appropriate, to be recorded in the office of the County Clerk and Recorder.
- (f) Recording and filing requirement. Within one (1) year of the date of final subdivision plan approval by the City Council, the applicant shall submit to the City a final plat to be recorded with the County Clerk and Recorder. The final plat submittal shall include two (2) complete reproducible Mylar copies of the final plat, together with all required documents, including all required signatures thereto, and payment of all applicable fees and charges and satisfaction of all other conditions of approval. Failure of the applicant to timely meet this submittal deadline shall cause the final plat and any related subdivision approvals to become void and ineffective unless the City Council extends such approval by resolution in its sole discretion.

within the one-year period following the applicant presenting good cause to support such extension. (Prior code 17.05.440; Ord. 4 §1, 2005; Ord. 17 §2, 2012)

Division 5 Board of Adjustment

Sec. 16-5-510. Planning commission as board of adjustment.

The Planning Commission shall act as the Board of Adjustment whenever such a board is required by this Chapter, this Code, other ordinances of the City or state or federal law. The Planning Commission shall adopt such rules as may be necessary for conduct of its business when acting as the Board of Adjustment. Matters formerly considered by the Board of Adjustment may be considered by the Planning Commission at any regular, special or adjourned meeting of the Planning Commission. (Prior code 17.05.510)

Sec. 16-5-520. Powers and duties.

Upon appeal, the Board of Adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning provisions of this Chapter.
- (2) To hear and decide appeals wherein there is a question regarding the interpretation of the Zone District Map or a question regarding the interpretation of the provisions of this Chapter.
- (3) To hear and decide appeals for special exceptions to the zoning provisions of this Chapter, such exceptions to be known as variances. (Prior code 17.05.520)

Sec. 16-5-530. Appeal procedures and variance applications.

- (a) Appeals to the Board of Adjustment may be taken by any person aggrieved by his or her inability to obtain a building permit, or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this Chapter. Appeals may be taken by an officer, department, board or bureau of the City affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration of this Chapter.
- (b) Appeals.
 - (1) Appeals to the Board of Adjustment must be made in writing and filed with the Planning Department within seven (7) days following the action or decision from which the appeal is taken. In the event the seventh day falls on a Saturday, Sunday or holiday, the next regular business day of the City shall be deemed the seventh day.
 - (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay, in the opinion of the officer, would cause eminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or a court of record on application, on notice to the officer from whom the appeal is taken and due cause shown.
- (c) Variance applications.
 - (1) Applications for variances must be submitted to the Planning Department at least thirty (30) days prior to a regularly scheduled meeting of the Board of Adjustment. The applications shall include all of those items identified in Article VI of this Chapter. Incomplete applications will not be accepted for review.

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- (2) The Planning Department staff will review the variance application for completeness within five (5) working days of submittal. If the variance application is determined to be complete, it will be accepted for review. If the application is incomplete, the applicant will be notified in writing of the information needed to complete the application and the application will be withdrawn from the review process until the required information is submitted. (Prior code 17.05.530)

Sec. 16-5-540. Public notice of hearing.

The Board of Adjustment will meet at least once per month, as designated by the Board of Adjustment, for the purpose of hearing appeals and requests for variances. The Board of Adjustment will hear requests for variances at a public hearing. The applicant or appellant is responsible for providing notice of the public hearing pursuant to the requirements of Section 16-1-50 of this Chapter. (Prior code 17.05.540)

Sec. 16-5-550. Review criteria.

- (a) Appeal of decision of administrative officer. The Board of Adjustment's scope of review regarding an appeal of an administrative zoning decision shall be limited to determining whether the decision by the administrative officer was in accordance with the intent and requirements of this Chapter. Accordingly, the Board of Adjustment will affirm or reverse the decision of the administrative officer.
- (b) Application for variance.
 - (1) A variance is an exception to one (1) or more of the requirements of a zone district in the City. A variance is not a property right. The Board of Adjustment may grant a variance to an applicant by waiving certain existing Code requirements, provided that the request meets certain standards of compatibility with the surrounding neighborhood. This basis shall apply to residential, commercial and industrial properties.
 - (2) The applicant's proposal, by complementing the general welfare and economic prosperity of the City and the immediate neighborhood, must meet the spirit and intent of the Comprehensive Plan. The Board of Adjustment will consider the degree to which relief from strict interpretation and enforcement of a specified regulation is necessary to achieve compatibility with sites in the vicinity. Input from neighbors will be heavily considered by the Board of Adjustment.
 - (3) Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance, nor will special privileges be granted. In granting a variance, the Board of Adjustment may impose conditions deemed necessary to protect affected property owners and to protect the intent of this Chapter.
 - (4) The Board of Adjustment may grant a variance based on the following:
 - a. Either of the following criteria exists:
 1. Minor additions or structural or cosmetic changes to existing structures, the result of which will be in harmony with the land use and existing structures in the neighborhood; or
 2. A practical difficulty has been demonstrated, based on:
 - a) Size, shape or dimensions of a site;
 - b) Location of existing structures;
 - c) Topographic or physical conditions on the site or in the immediate vicinity; or
 - d) Other physical limitations such as street locations or traffic conditions in the immediate vicinity.
 - b. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Comprehensive Plan or this Chapter.

- c. The granting of the variance will not be detrimental to the public health, safety or welfare.
 - d. The proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods.
 - e. Compatibility with adjacent land development and land uses is assured.
- (5) In granting a variance, the Board of Adjustment may impose conditions deemed necessary to protect affected property owners and to protect the intent of this Chapter. (Prior code 17.05.550; Ord. 4 §1, 2005)

Sec. 16-5-560. Board of Adjustment decision.

The Board of Adjustment shall complete its review and make its decision at the public hearing required under Section 16-5-540 above. The concurring vote of five (5) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative officer or agency, or to decide in favor of the appellant. (Prior code 17.05.560)

Sec. 16-5-570. Record of proceedings.

The Board of Adjustment shall maintain a record of its proceedings in the form of minutes. The record shall include comments of the appellant and other interested parties, as well as the recommendations of the Planning Department staff. A written copy of the minutes will be made available to any interested party within fifteen (15) days of the conclusion of the public hearing. (Prior code 17.05.570)

Sec. 16-5-580. Record of decision.

The Planning Department staff will issue a record of decision regarding the Board of Adjustment's decision on the appeal or application for a variance. The record of decision will also indicate any conditions of approval. A copy of the record of decision will be provided to the applicant or appellant and a copy maintained in the records of the City. (Prior code 17.05.580)

DEPARTMENT OF PLANNING & DEVELOPMENT

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Sec. 16-5-590. Duration of decision.

- (a) In the case of interpretations of these regulations or the Zone District Map, the decision of the Board of Adjustment shall remain in effect until any affected provisions of this Chapter or the Zone District Map are amended or the decision is changed by a court of law.
- (b) Any approval of a variance or use granted by the Board of Adjustment must be established on the subject property within one (1) year from the date of the hearing when the variance or use was granted by the Board of Adjustment. The failure of the property owner to establish the use in accordance with the record of decision will result in the expiration of the approval of the Board of Adjustment. (Prior code 17.05.590)