

## CHAPTER 2: APPLICATION PROCEDURES

### 2.01 Purpose and Organization

2.01.1 Purpose. This chapter describes the review procedures for land use applications and development activity in the Town of Wellington (the Town). This chapter ensures consistency and efficiency in the administration of the Town's land use regulations.

2.01.2 Organization. This chapter is organized into the following sections:

- 2.02 – Public Notice
- 2.03 – Procedures Table
- 2.04 – General Application Procedures
- 2.05 – Land Use Code Amendment
- 2.06 – Comprehensive Plan Amendment
- 2.07 – Rezone
- 2.08 – Administrative Adjustment
- 2.09 – Lot Line Adjustment
- 2.10 – Easement Adjustment
- 2.11 – Minor Deviation
- 2.12 – Site Plan
- 2.13 – Plot Plan
- 2.14 – Conditional Use Application
- 2.15 – Minor Subdivisions
- 2.16 – Major Subdivisions
- 2.17 – Planned Unit Development
- 2.18 – Condominium/Townhome Plat
- 2.19 – Revised Final Plat
- 2.20 – Annexation
- 2.21 – Variance
- 2.22 – Appeals
- 2.23 – Special Review

### 2.02 Public Notice and Public Hearing

#### Public Notice

2.02.2 **Generally.** For every public hearing required by the Land Use Code, the Town shall notify the public of the date, time, and place of that hearing; the address and legal description of the property involved; the purpose of the hearings; the right of interested persons to appear and be heard; the name of the applicant; and where additional information may be obtained by:

- A. *Published Notice.* Notice shall be published once in a newspaper published with general circulation in the Town at least 15 days prior to all hearings, except for annexation hearings. Noticing requirements apply to each subsequent hearing.
- B. *Written Notice.* Written notice shall be mailed at least 30 days prior to the hearing to all property owners of record, as recorded at the office of the Larimer County assessor, of properties within 500' of the subject property. The applicant is responsible for the list of names and addresses of owners as they appear in the records of the County Clerk and Recorder. The Town will verify the list of names and addresses prior to noticing.
  - 1. Written notice shall be mailed first-class postage, except subdivision review which shall be by certified mail.
  - 2. The applicant is responsible for obtaining the list of owners and providing it to the Planning Director or designee with the application submittal.
- C. *Posted Notice.*
  - 1. Notice shall be posted at the Town's designated official posting locations referenced at the Town's website (cite website location), at least five days prior to the hearing.
  - 2. Posting notice on the subject property on a sign approved by the Town of Wellington at least 15 days prior to the hearing. Location approval is required prior to sign placement.

2.02.3 **Computation.** In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

### Public Hearing

2.02.4 **Generally.**

- A. All required public hearings shall comply with the procedures adopted by the Town.
- B. The decision-maker conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing may be acquired by any person upon application to the Planning Director or designee and payment of a fee to cover the cost of duplication.

2.02.5 **Hearing Continuations.** The Town Board, Planning Commission, or Board of Adjustment may continue the hearing to a subsequent meeting at a certain date and time or may close the hearing and continue the meeting to deliberate the issues until a final decision is made.

If a hearing is continued to a certain date and time, no further notice of a continued hearing or meeting need be published.

## 2.03 Procedures Table

2.03.2 **Overview.** The following table summarizes the major review procedures for land use applications and development activity in the Town of Wellington. Not all procedures addressed in this chapter are summarized in this table (see subsequent sections of this chapter for additional details on each procedure).

| Application Type          | Pre-application Conference Required<br><br>Y = Yes   O = Optional | Authority                         |                     |            |
|---------------------------|---|-----------------------------------|---------------------|------------|
|                           |   | Staff Review                      | Planning Commission | Town Board |
|                           |   | R = Recommendation   D = Decision |                     |            |
| <b>Entitlements</b>       |   |                                   |                     |            |
| Amendment                 | O   | R                                 | R                   | D          |
| Rezone                    | Y   | R                                 | R                   | D          |
| PUD                       | Y   | R                                 | R                   | D          |
| Conditional Use           | Y   | R                                 | R                   | D          |
| Annexation                | Y   | R                                 | R                   | D          |
| Variance                  | Y   | R                                 | R                   | D          |
| Special Review            | Y   | D                                 | --                  | --         |
| <b>Plans</b>              |   |                                   |                     |            |
| Site Plan                 | Y   | R                                 | D                   | --         |
| Plot Plan                 | O   | D                                 | --                  | --         |
| <b>Administrative</b>     |   |                                   |                     |            |
| Administrative Adjustment | Y   | D                                 | --                  | --         |
| Lot Line Adjustment       | Y   | D                                 | --                  | --         |
| Easement Adjustment       | Y   | D                                 | --                  | --         |
| Minor Deviation           | Y   | D                                 | --                  | --         |
| <b>Plats</b>              |   |                                   |                     |            |
| <b>Major Subdivision</b>  |   |                                   |                     |            |
| <i>Preliminary Plat</i>   | Y   | R                                 | R                   | D          |
| <i>Final Plat</i>         | O   | R                                 | R                   | D          |
| Minor Subdivision         | Y   | R                                 | R                   | D          |
| Revised Final Plat        | Y   | D                                 | --                  | --         |
| Condominium/Townhome Plat | Y   | D                                 | --                  | --         |

## 2.04 General Application Procedures

## General Review Procedures

2.04.2 **Purpose.** This section outlines the general application procedures and review process for all land use applications.

2.04.3 **Applicability.** This section applies to all land use applications unless an exception to the general procedures is expressly identified in subsequent sections of this chapter.

2.04.4 **Procedure.**

A. *Pre-application Meeting.*

1. Intent. The pre-application conference provides an opportunity for an informal review of an application, and discusses the submittal requirements, development standards, schedule, and approval criteria. The pre-application meeting is not a formal review of the application. The guidance and feedback provided during the pre-application meetings are not considered binding upon the application, applicant, or the Town.
2. Standards.
  - a. The applicant shall request in writing, on the official form provided by the Town, a pre-application meeting with the Planning Director or designee. The applicant shall provide the required information as deemed necessary by the Planning Director or designee to conduct an informal review of the proposed development at least 10 business days in advance of a pre-application meeting.
  - b. A pre-application conference shall be held within 30 days of receipt of all necessary information unless a later date is agreed to by the applicant and the Planning Director or designee.
  - c. The Planning Director or designee may waive the pre-application meeting requirement if determined that the request does not warrant review prior to application.

B. *Land Use Application Submittal.*

1. Intent. The intent of the land use application is to formally review an application.
2. Standards. Application submittals shall be made on a form provided by the Town and accompanied by all required submittal documents and supporting information identified on the application, checklist and as discussed in the pre-application conference.
  - a. The applicable land use application fees shall be paid at the time of submittal of any land use application.
  - b. Unless otherwise specified in this Land Use Code, applications for review and approval may be initiated by:
    - i. The owner of the property that is subject to the application;
    - ii. The property owner's authorized agent, representative, or contract purchaser; or

- iii. Any review or decision-making body for the Town.
    - c. If an authorized agent or representative files an application under this Land Use Code on behalf of the property owner, the representative shall provide the Town with written, notarized documentation that the owner has authorized the filing of said application.
    - d. If a review or decision-making body initiates action under this Land Use Code, it shall do so without prejudice toward the outcome.
  3. Filing Fees. Application filing fees are set by the Town Board by resolution and may be reviewed and updated from time-to-time. Applications will not be processed until fees are paid in full. The fees paid are not refundable in whole or in part for applications withdrawn by an applicant unless recommended by the Planning Director and approved by the Town Administrator. All or a portion of the fees may be refunded depending on the amount of review and processing time already incurred by the Town.
  4. Additional Fees. If the Town Manager determines that additional funds are needed to complete the application review, including retention of outside professional services, the Town Manager may impose additional application fees, to recover the Town's actual costs in completing review.
    - a. The applicant shall be billed by the Town for all additional costs and any other fees incurred by the Town on a as needed basis per the Town's D-5 form;
    - b. Costs shall be a lien upon the property, and the Town reserves the right to stop work on a project and/or withhold approvals and permits if costs are not paid within 30 days after written notice. For withdrawn applications, any unused deposit shall be returned to the applicant within 60 days less any incurred "pass through" costs, as of the date of the formal withdrawal request.
- C. *Completeness Determination.*
  1. Following receipt of a development application, the Planning Director or designee shall certify that the development application submittal is complete.
  2. If the application is determined to be incomplete, the Planning Director or designee shall return the application to the applicant and provide a statement in writing specifying the additional information required. No further review activities will proceed until a completed application is accepted. Returned applications that are not resubmitted and accepted within 60 days shall be determined to be abandoned and of no further effect. A new application may be submitted, including applicable fees.
- D. *Application Review and Preparation of a Staff Report.*
  1. Following a completeness determination, the Planning Director or designee circulates the application to staff and appropriate referral entities for review.

2. The Planning Director or designee may also refer applications to other boards, commissions, government agencies, and non-governmental agencies not referenced in this chapter.
  3. The Planning Director or designee may request a meeting with the applicant to discuss the application and any written comments. Based on the written comments, the applicant may request an opportunity to revise the application prior to further processing. Additional submittals and review may be subject to additional fees, as determined by the Planning Director or designee.
  4. If the application requires review and approval by the Planning Commission or Town Board, the Planning Director or designee shall prepare a staff report once written comments have been adequately addressed. The staff report shall be made available to the applicant and the public, prior to the scheduled hearing on the application. The staff report shall indicate if the application complies with all applicable standards of this Land Use Code.
- E. *Public Notice*. Public noticing requirements, when required, must meet the requirements established in Section 2.02.
- F. *Public Hearings*. Public hearing requirements, when required, must meet the requirements established in Section 2.02.3.
- G. *Final Approvals*.
1. Decision. After consideration of the application, the staff report, comments received by the public and other reviewers, and the public hearing, the decision-making body shall either approve, approve with conditions, or deny the application based on the applicable approval criteria. Written notification of the decision shall be provided by the Planning Director or designee to the applicant within 10 business days following the decision and shall become part of the public record. All decisions shall include:
    - a. A clear written statement of approval, approval with conditions, or denial (whichever is appropriate); and
    - b. A clear statement of the basis upon which the decision was made, including specific findings of fact with reference to the relevant standards.
  2. Approval Criteria. The decision-making body shall find that the application complies with all applicable standards of the Land Use Code and applicable approval criteria.
  3. Conditions of Approval. The decision-making body may approve the application with conditions as necessary to bring the proposed development into compliance with this Land Use Code or other regulations, or to mitigate the impacts of that development to the surrounding properties and streets.
    - a. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed development or use or shall be based upon standards duly adopted by the Town.

- b. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.
- c. Unless otherwise provided in this Land Use Code, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.

H. *Post Decision Actions.*

1. Modification or Amendment of Approval. Unless otherwise permitted in this Land Use Code, any modification of approved plans, permits, or conditions of approval shall require a new application to be submitted and reviewed in accordance with the full procedure and fee requirements applicable to the application type.
2. Recording of Decisions. Once approved, the resolution, ordinance, or notice of decision shall be filed with the Town Clerk and recorded in the Office of the Larimer County Clerk and Recorder at the expense of the applicant.
  - a. For applications approved by the Planning Director or designee or Planning Commission, a notice of land use decision shall be issued by the Planning Director or designee or Town Clerk.
  - b. For applications approved by the Town Board, an ordinance or resolution shall be issued as determined by application type.
3. Lapse of Approval. Application approval shall be valid for a period of one year from the date of approval. Unless otherwise noted, authority to grant extensions shall reside with the decision-making body that granted the original approval. Extensions to the approval time frames may be granted only when all the following conditions have been met:
  - a. The provisions of this Land Use Code expressly allow the extension;
  - b. An extension request must be filed 10 days prior to the lapse-of-approval deadline with adequate justification; and
  - c. Any applicable conditions of approval have been met.
4. Revocation. Application approval may be revoked or suspended upon finding that the use, building, or site for which the permit was issued is substantially different than what was represented in the application or that one or more of the conditions or requirements contained in the application approval has been violated.
5. Denial and Reapplication. No application that is substantially similar shall be submitted within a period of one year.

- I. *Effect of Inaction.* If a review or decision-making body fails to take action on an application within the specified timeframe, such inaction shall be deemed a denial of the application unless the decision-making body grants an extension.

### Administrative Review Procedures.

2.04.5 **Purpose.** This section outlines the review process for all administrative land use applications which do not require a public hearing.

2.04.6 **Applicability.** This section applies to all administrative land use applications not requiring a public hearing unless an exception is expressly identified in subsequent sections of this chapter.

### 2.04.7 **Procedure.**

- A. *Pre-application Meeting.* Same as referenced in Section 2.04.3.
- B. *Land Use Application Submittal.* Same as referenced in Section 2.04.3.
- C. *Application Fees.* Same as referenced in Section 2.04.3.
- D. *Completeness Determination.* Same as referenced in Section 2.04.3.
- E. *Application Review.* Same as referenced in Section 2.04.3.
- F. *Final Approvals.*
  1. Decision. After consideration of the application, the Planning Director or designee shall either approve, approve with conditions, or deny the application based on the applicable approval criteria. Written notification of the decision shall be provided by the Planning Director or designee to the applicant following the decision.
    - a. All decisions shall include a clear written statement of approval, approval with conditions, or denial (whichever is appropriate).
    - b. A clear statement of the basis upon which the decision was made, including specific findings of fact with reference to the relevant standards shall be provided to the applicant and included in the public record.
  2. Approval Criteria. The Planning Director or designee shall find that the application complies with all applicable standards of the Land Use Code and applicable approval criteria.
  3. Conditions of Approval. The Planning Director or designee may approve the application with conditions as necessary to bring the proposed development into compliance with this Land Use Code or other regulations, or to mitigate the impacts of that development to the surrounding properties and streets.
    - a. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed development or use or shall be based upon standards duly adopted by the Town.

- b. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.
- c. Unless otherwise provided in this Land Use Code, any representations of the applicant in submittal materials shall be binding as conditions of approval.

G. *Post Decision Actions.* Same as referenced in Section 2.04.2

H. *Effect of Inaction.* If the Planning Director or designee fails to take action on an application within the specified timeframe of 30 days, such inaction shall be deemed a denial of the application.

### Review and Decision-Making Bodies.

**2.04.8 Purpose.** This section outlines the review and decision-making bodies and their roles. Full duties and responsibilities for each decision-making body can be found in Sections 2.04.6 – 9 of this Land Use Code.

#### **2.04.9 Planning Director**

- A. The Planning Director or their duly authorized designee shall review and prepare a staff report for all applications requiring a public hearing. The Planning Director or designee shall also present the application and their recommendation of approval, approval with conditions, or denial at the public hearing for the application.
- B. In the event of an administrative review, the Planning Director or designee shall make the final determination of an application. Applications undergoing administrative review shall follow the procedure for administrative review outlined in section 2.04.06 the specific review procedures for the application.
- C. Decisions made by the Planning Director or designee are appealable to the Planning Commission. See Section 2.22 for appeal standards and procedure.

#### **2.04.10 Town Planning Commission**

- A. The Town Planning Commission (Planning Commission) shall review all applications at a public hearing held during a regular meeting, including the staff report, information from the applicant, and any public comment. This hearing will provide a recommendation of approval, approval with conditions, or denial to the Town Board for all applications requiring Town Board approval.
- B. All applications requiring Planning Commission review or approval shall follow the general review procedures set forth in Section 2.02 and Section 2.04.3 and the specific review procedures for the application.
- C. Decisions made by the Town Planning Commission are appealable to the Town Board. See Section 2.22 for appeal standards and procedure.

#### 2.04.11 **Town Board of Trustees**

- A. The Town Board of Trustees (Town Board) shall review an application at a public hearing held during a regular meeting including the recommendation of the Planning Commission, the staff report, information from the applicant, and any public comment. This hearing will provide a final decision of approval, approval with conditions, or denial of an application.
- B. Applications requiring Town Board approval shall follow the general review procedures set forth in Section 2.02 and Section 2.04.3 and the specific review procedures for the application.
- C. Decisions made by the Town Board are appealable to the District Court. See Section 2.22 for appeal standards and procedure.

#### 2.04.12 **Town Board of Adjustment**

- A. Any application obtaining Town Board approval shall follow the general review procedures set forth in Section 2.02 and Section 2.04.3 and the specific review procedures for the application.
- B. Decisions made by the Town Board of Adjustment are appealable to the District Court. See Section 2.22 for appeal standards and procedure.

### 2.05 **Land Use Code Amendment**

2.05.2 **Purpose.** The text of this Land Use Code may be amended pursuant to this section to respond to a change in conditions or public policy, or to advance the general health, safety, welfare, and morals of the Town.

2.05.3 **Applicability.** The Planning Commission or Town Board may initiate an amendment to the text of this Land Use Code. Any person may suggest to the Planning Commission that an amendment be given consideration. The Planning Director or designee shall prepare the application at the request of the Planning Commission.

2.05.4 **Procedure.** All Land Use Code amendment applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a Land Use Code amendment.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a Land Use Code amendment application shall include:
  - 1. A narrative of the proposed Land Use Code amendment;
  - 2. The existing text in the Land Use Code;
  - 3. An analysis of the proposed impact on residents, if applicable; and
  - 4. Any other information identified by the Planning Director or designee.
- C. *Review and Approval.*

1. Planning Commission Recommendation.
  - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. Staff shall present the staff report and recommendation.
  - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the amendment to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement to submit additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
  - c. A copy of the Planning Commission recommendation shall be sent to the Town Board to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
2. Town Board Approval.
  - a. The Town Board shall hold a public hearing and review the amendment at a regular meeting. Public notice shall be given pursuant to Section 2.02. Staff shall present the staff report and recommendation.
  - b. The Town Board shall either approve, approve with conditions, or deny the amendment, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the amendment complies with the Town's regulations, goals, and policies.

#### **2.05.5 Findings for Approval.**

- A. The amendment is not likely to result in significant adverse impacts upon the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation) or such impacts will be substantially mitigated;
- B. The amendment is necessary for the protection of health, safety, welfare, and morals of the community;
- C. The amendment is consistent with the Comprehensive Plan and the intent stated in this Land Use Code; and
- D. The amendment is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas.

## **2.06 Comprehensive Plan Amendment**

- 2.06.2 Purpose.** The Comprehensive Plan may be amended pursuant to this section to respond to a change in conditions or public policy, or to advance the general health, safety, welfare, and morals of the Town.

**2.06.3 Applicability.** The Planning Commission may initiate an amendment to the Comprehensive Plan. Any person or the Town Board may suggest to the Planning Commission that an amendment be given consideration. The Planning Director or designee shall prepare the application at the request of the Planning Commission.

**2.06.4 Procedure.** All Comprehensive Plan amendment applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a Comprehensive Plan amendment.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a Comprehensive Plan amendment application shall include:
  - 1. A narrative of the proposed Comprehensive Plan amendment;
  - 2. The existing text in the Comprehensive Plan;
  - 3. An analysis of the proposed impact on residents, if applicable.
- C. *Review and Approval.*
  - 1. Planning Commission Approval.
    - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02.3. Staff shall present their staff report and recommendation.
    - b. The Planning Commission shall either approve, approve with conditions, or deny the amendment, or continue the hearing pursuant to Section 2.02.4, with the requirement to submit additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.

**2.06.5 Findings for Approval.**

- A. The amendment is not likely to result in significant adverse impacts upon the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation);
- B. The amendment is necessary for the protection of health, safety, welfare, and morals of the community; and
- C. The amendment is consistent with the Town's goals and policies.

## **2.07 Rezone**

**2.07.2 Purpose.** The boundaries of any zoning district may be changed or the zoning classification of any parcel of land may be changed pursuant to this section.

- A. The intent is to make adjustments to the official zoning map that are necessary as a result of a change in conditions or public policy, or to advance the general health, safety, welfare, and morals of the Town.
- B. A rezone is not intended to relieve particular hardships, nor confer special privileges or rights to any person or party.

**2.07.3 Applicability.** Rezone applications may be initiated by the Planning Commission, the Town Board, or the owner(s) of the property to be rezoned. Any person may suggest to the Planning Commission that a rezone be given consideration.

- A. A rezone application shall not be made when a variance, or administrative adjustment could be used to achieve the same result.
- B. Changes to the standards or characteristics of zoning districts (such as floor area ratio or setbacks) shall be processed as text amendments to the Land Use Code.

**2.07.4 Procedure.** All rezone applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is required for a rezone application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a rezone application shall include:
  - 1. A site plan depicting the property lines, location of existing buildings, parking, utilities and easements, and any other details required to demonstrate rezone request;
  - 2. A written narrative justifying why the proposed zoning fits in with the surrounding neighborhood and is more appropriate for the property than the existing zoning;
  - 3. A list of all property owners within 500’;
  - 4. A map showing all zoning districts within 500’;
  - 5. Proof of ownership or a letter of authorization from the owner; and
  - 6. Any other information identified in the pre-application meeting.
- C. *Review and Approval.*
  - 1. Planning Commission Recommendation.
    - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present the staff report and recommendation.
    - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information

necessary to determine whether the application complies with the Town's regulations, goals, and policies.

- c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.

## 2. Town Board Approval.

- a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative shall be present at the meeting to present the proposal. Staff shall present the staff report and recommendation.
- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

*D. Post Decision Actions.* Same as referenced in Section 2.04.3, General Application Procedures in addition to the following: Is the protest petition post-decision if the Town Board hasn't voted yet?

1. Protests. A protest against a rezone application must be submitted to the Town Clerk at least 14 days before the Town Board's vote on the rezone application.
2. If a valid protest is submitted, the amendment shall only become effective upon approval by three-fourths of the entire membership of the Board, whether present or not. For a protest to be valid, it must be signed by either:
  - a. The owners of 20% or more of the area included in the proposed rezone application; or
  - b. The owners of 20% or more of the land within 500 feet of the land included in the proposed rezone application.
- c. Add specifics about criteria for consideration.

### 2.07.5 Findings for Approval.

- A. The rezone is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The rezone is consistent with the stated intent of the proposed zoning district(s);
- C. The rezone will not result in adverse impacts to the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation) or such impacts will be mitigated;

- D. The rezoning of the subject property will not result in material adverse impacts to the surrounding properties;
- E. Facilities and services (roads, transportation, water, gas, electricity, police, fire protection, and sewage and waste disposal) are available to serve the subject property while maintaining adequate levels of service to existing development; and
- F. The rezoning is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

## 2.08 Administrative Adjustment

2.08.2 **Purpose.** This Section allows for greater flexibility as necessary without requiring a formal zoning amendment, Land Use Code amendment, or variance. The administrative adjustment procedure is not intended to serve as a waiver of Land Use Code standards or to circumvent the variance procedure.

2.08.3 **Applicability.** The administrative adjustment procedure allows for minor modifications or deviations from the dimensional or numeric standards of The Land Use Code up to 10% with approval by the Planning Director or designee.

- A. Changes to the following standards cannot be approved through the administrative adjustments procedure and must be approved through the original application process.
  - 1. Deviations from the dimensional or numeric standards beyond 10%;
  - 2. Amendments to approved Planned Unit Developments;
  - 3. Conditions of approval;
  - 4. An increase in the overall project density or floor area;
  - 5. A change in permitted use intensity;
  - 6. A deviation from the use-specific standards;
  - 7. A change to a development standard already modified through a separate administrative adjustment or variance;
  - 8. Building materials or aesthetic elements; or
  - 9. Requirements for public roadways, utilities, or other public infrastructure or facilities.

2.08.4 **Procedure.** All applications for administrative adjustments shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6.

- A. *Pre-application Conference.* A pre-application conference is required for an administrative adjustment application to discuss specific application procedures, criteria and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, an administrative adjustment application shall include:
  - 1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all regulations and development standards applicable to the proposed zoning district;
  - 2. A written narrative justifying why the proposed use fits in with the surrounding neighborhood and detailing existing uses on neighboring properties;
  - 3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
  - 4. Any other information identified in the pre-application meeting.
- C. *Review and Approval.*
  - 1. Administrative Approval.
    - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
    - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

#### **2.08.5 Findings for Approval.**

- A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The relief requested is compatible with the character of the surrounding area in terms of building scale, form, landscape, and site design;
- C. The relief requested is based upon sound planning or urban design principles that are professionally recognized and shall not result in new or increased nonconformities;
- D. 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;
- E. 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; and

- F. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

## 2.09 Lot Line Adjustment

2.09.2 **Purpose.** This section is intended to provide administrative review for minor adjustments to legal boundaries and title of property for proper recording. These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.09.3 **Applicability.** Adjustments to previously platted lots may be eligible for lot line adjustment where:

- A. The adjustment affects no more than 4 lots;
- B. The adjustment results in no additional lots;
- C. The adjustment does not affect public right-of-way or easement dedications that would adversely impact provision of public services unless a separate instrument can be recorded to provide necessary connectivity;
- D. The adjustment does not result in a vacation request; and
- E. The adjustment does not create nonconformities on any lot.

2.09.4 **Procedure.** All applications for lot line adjustment shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

- A. *Pre-application Conference.* A pre-application conference is required for a lot line adjustment application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a lot line adjustment application shall include:
  - 1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all regulations and development standards applicable to the proposed zoning district;
  - 2. A written narrative justifying why the proposed use fits in with the surrounding neighborhood and detailing existing uses on neighboring properties;

3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
4. Any other information identified in the pre-application meeting.

C. *Review and Approval.*

1. Administrative Approval.
  - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
  - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

#### 2.09.5 Findings for Approval.

- A. The lot line adjustment is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The lot line adjustment shall meet the intent of the zone district in which it is located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- C. The lot line adjustment shall not result in new or increased nonconformities;
- D. The lot line adjustment shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities;
- E. The lot line adjustment has no effect on the conditions applied to the approval and does not violate any Code requirement; and
- F. The lot line adjustment is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

## 2.10 Easement Adjustment

2.10.2 **Purpose.** This section is intended to provide administrative review for minor adjustments to easements for proper recording. These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.10.3 **Applicability.** Easement adjustments, vacations, or additions may be eligible for administrative approval where:

- A. The revisions are due to field conditions that could not have been reasonably anticipated or were discovered at the time of the final plat which result in no material change to the application;
- B. The revisions are due to changes in the development program, and these changes will impact public facilities the same or similarly to the previously approved application; or
- C. The application contains sufficient documentation showing the easement holder concurs with a proposed adjustment or vacation.

2.10.4 **Procedure.** All applications for easement adjustment shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

- A. *Pre-application Conference.* A pre-application conference is required for an easement adjustment application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, an easement adjustment application shall include:
  - 1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all regulations and development standards applicable to the proposed zoning district;
  - 2. A written narrative justifying why the proposed use fits in with the surrounding neighborhood and detailing existing uses on neighboring properties;
  - 3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
  - 4. Any other information identified in the pre-application meeting.
- C. *Review and Approval.*
  - 1. Administrative Approval.
    - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
    - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

#### 2.10.5 **Findings for Approval.**

- D. The easement adjustment is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;

- A. The easement adjustment shall meet the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- B. The easement adjustment shall not result in new or increased nonconformities;
- C. The easement adjustment shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
- D. The easement adjustment has no effect on the conditions applied to the approval and does not violate any Code requirement; and
- E. The easement adjustment is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

## 2.11 Minor Deviation

2.11.2 **Purpose.** This section is intended to allow minor deviation from approved permits/approvals for changes that are determined necessary to address technical or engineering considerations first discovered during development or use that were not reasonably anticipated during the initial approval process.

2.11.3 **Applicability.** Minor Deviations may not be sought for the following approved applications:

- A. Amendments to Land Use Code;
- B. Rezone Applications;
- C. Administrative Adjustments;
- D. Lot Line Adjustments;
- E. Easement Adjustments;
- F. Variances; or
- G. Appeals.

2.11.4 **Procedure.** All applications for Minor Deviations shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6.

- A. *Pre-application Conference.* A pre-application conference is required for a minor deviation application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a minor deviation application shall include:
  1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate

conformance with all regulations and development standards applicable to the proposed zoning district;

2. A written narrative justifying why the proposed use fits in with the surrounding neighborhood and detailing existing uses on neighboring properties;
3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
4. Any other information identified in the pre-application meeting.

C. *Review and Approval.*

1. Administrative Approval.

- a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
- b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

**2.11.5 Findings for Approval.**

- A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The relief requested does not include increases in the amount of building floor area or reduction of the amount of open space set aside;
- C. The relief requested is based upon sound planning or urban design principles that are professionally recognized and shall not result in new or increased nonconformities;
- D. 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;
- E. The relief requested is the minimum necessary to meet the intent and applicability of the zoning district and the intent of the minor deviation process; and
- F. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas. (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

**2.12 Site Plan**

**2.12.2 Purpose and Applicability.** The site plan shall be submitted to apply for a building permit for all permitted principal uses of multi-family, commercial and industrial developments. The site plan shows lot arrangement and site design so the Town can make sure the site plan

complies with all Town regulations. A site plan shall also be submitted for any re-development, substantial changes to an existing site, changes that affect site circulation or access, and for any exterior modifications to an existing building within the C-2, Downtown Commercial District to show compliance with the Cleveland Avenue Architectural Standards. When a development requires approval as a conditional use, the site plan approval process shall be processed concurrently with the conditional use application. (Ord. 11-2007 [§1](#)) (Ord. No. [2-2013](#), § 2, 3-26-13)

**2.12.3 Procedure.** All site plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.2

- A. *Preapplication Conference.* A pre-application conference is required for a site plan application to discuss specific application procedures, criteria, and requirements for a formal application. This requirement may be waived at the discretion of the Planning Director or designee.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a site plan application shall include:
  - 1. Traffic study or waiver request. In accordance with the Standard Design Criteria and Standard Construction Requirements.
  - 2. Site plan map. The site plan map shall provide information per the site plan application checklist provided by the Planning Director or designee.
  - 3. Demonstrate, in written or graphic form, how the proposed structure is consistent with the Design and Development Standards found in Article 3 of this Chapter 16 of this Code.
  - 4. Final landscape plan per Section 5.04.
  - 5. Provide complete building elevations and perspective rendering, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structures. In addition, Town staff may require building floor plans, sectional drawings, additional perspective drawings, models and/or computer visualizations when the impacts of a proposal warrant such information.
- C. *Review and Approval.*
  - 1. Planning Commission Approval.
    - a. The Planning Commission shall review the application at a regular meeting. Staff shall present their staff report and recommendation.
    - b. The Planning Commission shall either approve, approve with conditions, or deny the application.
  - 2. Town Board consideration of appeals.
    - a. The Town Board shall consider any appeal within forty-five (45) days of the close of the appeal period, except an appeal associated with a concurrent development application

requiring Town Board review or approval, which the Town Board shall consider with final action on the concurrent development application. The Town Board shall apply the site plan review criteria to either uphold, modify, or reverse the Planning Commission's decision.

*D. Post Decision Actions.* Same as referenced in Section 2.04.3, in addition to the following:

1. Any aggrieved party, who wishes to appeal the action shall file a written appeal stating the reasons why the Planning Commission action is incorrect. The applicant shall file the appeal with the Town Administrator/Clerk within seven (7) days of the meeting at which such action was taken.

*E. Post Decision Actions.* Same as referenced in Section 2.04.3, in addition to the following:

1. Memorandum of Agreement for Public Improvements. Staff may require that the applicant execute a MOAPI to assure the construction of on-site and off-site improvements as a condition of approval of the site plan. Guarantees in the site plan agreement shall be secured by an irrevocable letter of credit in an amount determined appropriate by Town staff.
2. Building permit. A building permit shall be issued only when final site plan plans have been submitted, reviewed, and approved by the Department directors.
  - a. Exception. A building permit may be issued for the construction of a foundation and shell only for commercial and industrial uses to allow for the partial construction of a speculation building with unknown tenant and use.
3. Certificate of Occupancy. When building construction and site development are completed in accordance with the approved site plan and building permits, a Certificate of Occupancy may be issued.
4. Phasing and expiration of approval. The site plan shall be effective for a period of three (3) years from the date of approval, unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than three (3) years old. For multi-phased plans, building permits shall not be issued based on an approval date more than three (3) years from the date of Phase I approval. (Ord. 11-2007 §1) (Ord. No. 13-2011, § 1, 11-22-11)

#### **2.12.4 Findings for Approval.**

- A. The site plan is consistent with the Comprehensive Plan and the intent stated in this Land Use Code.
- B. The lot size and lot dimensions are consistent with what is shown on the approved final plat.
- C. No buildings or structures infringe on any easements.
- D. The proposed site grading is consistent with the requirements of \_\_\_\_\_ (insert reference to any applicable adopted storm drainage criteria or master drainage plans).
- E. The density and dimensions shown conform with Article 5 of Chapter 16 of this Code, Density and Dimensional Standards, or the approved PUD requirements.

F. The applicable Design and Development Standards have been adequately addressed and the proposed improvements conform with Article 3 of Chapter 16 of this Code. (Ord. 11-2007 §1)

#### 2.12.5 Amendments to Approved Site Plans.

- A. Minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town staff. Such changes shall not exceed ten percent (10%) of any measurable standard or modify the use, character, or density of an approved site plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.
- A. Changes to approved site plans that exceed the ten percent (10%) threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new site plan application. Such amendments shall require Planning Commission review and approval to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section. (Ord. 11-2007 §1)

### 2.13 Plot Plan

2.13.2 **Purpose and Applicability.** The plot plan shall be submitted to apply for a building permit for any building or structure constructed on a single-family home or duplex lot. The plot plan shows where the proposed building or structure will be located on the lot so the Town can make verify compliance with all Town regulations. (Ord. 11-2007 [§1](#))

2.13.3 **Procedure.** All plot plan applications shall comply with the following specific procedures in addition of the general procedures in Section 2.04.2

- B. *Pre-application Conference.* A pre-application conference is not required for a plot plan application.
- A. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a plot plan application shall include:
  - 1. Plot plan map.
  - 2. Drainage information. Provide the Town with information regarding how the lot will drain, if requested by the Planning Director or designee. Submit a copy of the subdivision master drainage plan for the area of the lot, if available.
- B. *Review and Approval.* The Planning Director or designee shall review the plot plan map and determine if it is consistent with the findings for approval. The Planning Director or designee will submit their determination to the Building Department to accompany the building permit application. (Ord. 11-2007 §1)

2.13.4 **Findings for Approval.**

- A. The plot plan is consistent with the Comprehensive Plan and the intent stated in this Land Use Code.
- B. The lot size and lot dimensions are consistent with what is shown on the approved final plat.
- C. No buildings or structures infringe on any easements.
- D. The proposed site grading is consistent with the subdivision grading and drainage plan, if applicable; otherwise, it shall meet the Town's approval.
- E. The density and dimensions shown conform with the Density and Dimensional Standards (Article 5 of Chapter 16 of this Code) or the approved PUD requirements.
- F. The applicable Design and Development Standards have been adequately addressed. (Ord. 11-2007 §1)

## 2.14 Sign Permit 1

- A. Applications. Each sign permit requires a separate application. The applicant must file the application on a form furnished by the Building and Planning Department and include payment of the non-refundable permit fee. The applicant must submit all information requested on the application form if applicable.
- B. Review.
  1. The Building and Planning Department will review a sign permit application to determine if it is complete. If the application is incomplete, the Building and Planning Department will provide a list of items necessary to complete the application within 7 business days after the application was submitted.
  2. The Building and Planning Department will review a complete sign permit application for compliance with this Section and render an administrative decision.
  3. The Building and Planning Department will act on an application by approving, approving with conditions, or denying the application within 30 days of the date the application is deemed complete.
- C. Approval Criteria. The Building and Planning Department will issue a sign permit if the proposed sign conforms with all applicable provisions of this Section and any conditions or stipulations of any applicable rezoning, special use permit, site plan, or development plan.
- D. Expiration. A sign permit becomes null and void if installation does not commence within 120 days from the date of permit approval. If work authorized by the permit is suspended or abandoned for 120

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<sup>1</sup> This new subsection replaces the previous requirement for sign approval during site plan review from §16-14-40 with a new sign permit as recommended in the Codes Assessment Sign Code Recommendation 3: "Develop application process for a sign permit." The subsection provides for application submittals to be listed on the application. Specific submittals can be included in this subsection if preferred.

days from the date the work commences, a new permit is required to complete the installation work, even if no changes are made to the original sign plan.

- E. Revocation. The Building and Planning Department may revoke a sign permit if:
1. It is issued in error; or
  2. The sign or sign supporting structure is installed contrary to the approved plans or in violation of this Section.

## 2.15 Conditional Uses

2.15.2 **Purpose.** Conditional Use approval provides flexibility and helps diversify uses within a zoning district. Specific conditional uses for each zone district are listed in Article 6.

2.15.3 **Applicability.** Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this section assures compatibility and harmonious development between conditional uses, surrounding properties and the Town's goals and policies. Conditional uses may be permitted subject to conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied. (Ord. 11-2007 §1)

2.15.4 **Procedure.** All conditional use applications shall comply with the following specific procedures in addition to the general application procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is optional for a conditional use application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a conditional use application shall include the following:
1. A written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
  2. A map showing the proposed development of the site, including any applicable topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
  3. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance, and scale of all buildings.

4. Such additional material as the Planning Director or designee may prescribe or the applicant may submit pertinent to the application.

*C. Review and Approval.*

1. Planning Commission Recommendation.

- a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.

2. Town Board Approval.

- a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

#### **2.15.5 Findings for Approval.**

- A. The conditional use is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The conditional use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection,

parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.

- C. The conditional use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.
- D. The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
- E. Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts or state a negligible impact:
  - 1. Traffic;
  - 2. Activity levels;
  - 3. Light;
  - 4. Noise;
  - 5. Odor;
  - 6. Building type, style and scale;
  - 7. Hours of operation;
  - 8. Dust; and
  - 9. Erosion control.
- F. The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained. (Ord. 11-2007 §1)

## 2.16 Minor Subdivisions

### Minor Subdivision Plat

2.16.2 **Purpose.** The purpose of the minor subdivision plat is to provide an administrative process for subdivision of land that meets the requirements of the applicability section below.

2.16.3 **Applicability.** A minor subdivision shall be defined as a subdivision of land that meets the following conditions:

- A. The property has previously been platted within the Town;
- B. The entire tract to be subdivided is five (5) acres or less in size;
- C. The resulting subdivision will produce four (4) or fewer additional lots; and
- D. There will be no exceptions to the Subdivision Design Standards. (Ord. 11-2007 §1)

**2.16.4 Procedure.** All minor subdivisions shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3

- A. *Pre-application Conference.* A pre-application conference is required for a minor subdivision application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a minor subdivision application shall include:
  - 1. Minor subdivision plat.
  - 2. General development information. Provide a written description addressing how the proposed development conforms with the Design and Development Standards, Chapters 16 and 17 of this Code and the Comprehensive Plan.
- C. *Review and Approval.*
  - 1. Administrative Approval.
    - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
    - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

**2.16.5 Findings for Approval.**

- 1. The minor subdivision is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- 2. The minor subdivision meets the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- 3. The minor subdivision does not result in new or increased nonconformities;
- 4. The minor amendment mitigates, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
- 5. The minor amendment has no effect on the conditions applied to the approval of the plat and does not violate any requirement of the Code; and
- 6. The administrative plat is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

**2.17 Major Subdivisions**

## Preliminary Plat

2.17.2 **Purpose.** The purpose of the major subdivision preliminary plat is to provide the Town with an overall master plan for the proposed development. (Ord. 11-2007 §1)

2.17.3 **Applicability.** A major subdivision shall be defined as a subdivision of land results in more than four (4) additional lots.

2.17.32.17.4 **Procedure.** All major subdivision preliminary plat applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is required for a major subdivision preliminary plat application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
  1. Preliminary plat.
  2. General development information. Provide a written description of the existing conditions on the site and the proposed development, including an explanation of how the plan is consistent with the Land Use Code and Comprehensive Plan.
  3. Preliminary grading and drainage plan and report. This plan and report must be certified by a Colorado-registered professional engineer, including storm drainage concepts such as locations for on-site detention or downstream structural improvements and soil erosion and sedimentation control plans and specifications. It must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site as well as any FEMA applications required.
  4. Preliminary utility plan. This plan shall be prepared by a registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision. Town utilities shall be designed in conformance with the Town's Standard Design Criteria and Standard Construction Requirements.
  5. Preliminary landscape and open space plan per Section 5.04.
  6. Traffic study. This study must be prepared by a professional traffic engineer in conformance with the Division 1 Section 01300 Standard Design Criteria and Standard Construction Requirements.
  7. Draft of proposed covenants and architectural design guidelines.
  8. Mineral, oil and gas rights documentation. Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site and is working towards resolution. Included in the evidence must be the name of the current contact person, their phone number and mailing address.

9. Soils report.

C. *Review and Approval.*

1. Planning Commission Recommendation.

- a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.

2. Town Board Approval.

- a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

**2.17.42.17.5 Findings for Approval.**

- A. The preliminary plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Comprehensive Plan.
- B. The land use mix within the project conforms to the Town's Zoning District Map and furthers the goals and policies of the Comprehensive Plan including:
  1. The proposed development promotes the Town's small town, rural character;
  2. Proposed residential development adds diversity to the Town's housing supply;

3. Proposed commercial development will benefit the Town's economic base;
  4. Parks and open space are incorporated into the site design;
  5. The proposed project protects the Town's environmental quality; and
  6. The development enhances cultural, historical, educational and/or human service opportunities.
- C. The utility design is adequate at a capacity that promotes the Town's character while strengthening the Town's vitality.
- D. The transportation design meets the intent of the Comprehensive Plan to provide increased connectivity, reduce traffic impacts, and encourage walkability.
- E. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
- F. There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals. (Ord. 11-2007 §1)

### Final Plat

2.17.52.17.6 **Purpose.** The purpose of the final plat is to complete the subdivision of land consistent with the technical standards. (Ord. 11-2007 §1)

2.17.62.17.7 **Procedure.** All major subdivision preliminary plat applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a major subdivision final plat application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
  1. Final plat.
  2. General development information. Provide a written description confirming that the final plat conforms with the preliminary plat. In addition, the description shall address how the proposed development conforms with the Design and Development Standards.
  3. Complete engineering plans and specifications.
    - a. *Construction plans and profiles.*
    - b. *Structure details.* Sufficient data shall be given to construction of major structures and road appurtenances such as bridges, culverts, gutters, drives, walks, cross pans, etc.; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc.
    - c. *Sewage collection and water supply distribution plans, profiles and specifications.* The plans, profiles and specifications shall be prepared by a registered professional engineer and shall conform to the Standard Design Criteria and Standard Construction Requirements.

- d. *Final drainage plans and reports.* Based upon the approved preliminary drainage plan, a final report is to be submitted in accordance with applicable storm drainage design criteria as determined at the initial preapplication conference.
  - e. *Final grading plan.*
  - f. *Soils reports.* The soils reports shall detail special foundation requirements (shall be submitted after overlot grading is complete) and pavement design (may be submitted prior to building permit).
  - g. *Final street lighting plan.* A final street lighting plan shall be prepared in conjunction with the electric utility. The plan must specify the number, kind and approximate location of street lights.
  - h. *Final landscape plan.*
4. Special documents (as needed).
- a. Special improvement district documents.
  - b. Maintenance bonds.
  - c. Special agreements (as may be required by the Town).
  - d. Work in Right-of-Way permit (from the Town).
  - e. Floodplain Use permit (from the Town).
  - f. Grading permit (from the Town).
  - g. State Highway Utility permit (from Colorado Department of Transportation).
  - h. State Highway Access permit (from Colorado Department of Transportation).
  - i. Construction Dewatering permit (from Colorado Department of Public Health and Environment).
  - j. 404 permit (from Army Corps of Engineers).
  - k. Air Pollution Emission Notice (APEN) (from Colorado Department of Public Health and Environment).
  - l. Work in Ditch Right-of-Way permit (from individual ditch companies).
  - m. Rare Species Occurrence Survey (from U.S. Fish and Wildlife Service).
  - n. Approved adjudication of water rights and a plan of augmentation (if applicable).
  - o. Protective covenants, homeowners' association (HOA) documents, articles of incorporation for HOA, and Architectural Design Guidelines finalized and in a form for recording. If there are open space areas to remain in private ownership within the subdivision, the HOA documents must have in place a mechanism which will assure maintenance will be funded in perpetuity.
  - p. FEMA-approved applications (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).

- q. Documentation showing who will own and maintain the open space.
  - r. Documentation for dedication of public sites for open space or other civic purposes.
5. "Clean" final plat for addressing.
- a. Title of project.
  - b. North arrow, scale (not greater than 1"=100') and date of preparation.
  - c. Vicinity map.
  - d. Lot and block numbers, numbered in consecutive order.
  - e. Rights-of-way and street names.
  - f. Property boundary.

C. *Review and Approval.*

1. Planning Commission Recommendation.
  - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
  - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
  - c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
2. Town Board Approval.
  - a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
  - b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
  - c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable

from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

- D. *Post Decision Actions*. The applicant shall submit the following documentation to the Town Planner following final decision of the major subdivision final plat:
1. List of contractors. List of all contractors that will be performing the improvements.
  2. Proof of insurance. Proof of workers' comprehensive insurance and liability insurance for each contractor.
  3. Open space deed restriction. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space in perpetuity.
  4. Other certificates, affidavits, enforcements, or deductions. As required by the Planning Commission or Town Board. (Ord. 11-2007 §1)
  5. Memorandum of Public Improvements (MOAPI). This agreement assures construction of the required improvements. This document shall be signed by the developer and the Town, the signatures shall be notarized and the document shall be recorded by the Town Administrator/Clerk with the County Clerk and Recorder.
  6. General warranty deed. This deed conveys to the Town all public lands other than streets shown on the plat or, in lieu of a deed, a check in an amount to be determined by the Town.
  7. Improvements guarantee. Letter of credit from a bank in Colorado or other acceptable collateral in the amount stipulated to in the MOAPI or other agreements or contracts, posted in favor of the Town in an amount sufficient to assure construction of public improvements.

#### 2.17.72.17.8 Findings for Approval.

- A. The final plat conforms with the approved preliminary plat and incorporates recommended changes, modifications and conditions attached to the approval of the preliminary plat unless otherwise approved by the Town Board.
- A. The development will substantially comply with the Design and Development Standards as set forth in Chapter 16, Article 3 of this Code.
- B. All applicable technical standards have been met. (Ord. 11-2007 §1)

## 2.18 Planned Unit Development (PUD)

2.18.2 **Purpose**. The Planned Unit Development (PUD) permits and encourages innovative design and high quality, master-planned developments on large parcels of land.

2.18.3 **Applicability**. Planned Unit Developments may be eligible for approval pursuant to the requirements established in this section.

**2.18.4 General PUD Requirements.** Properties utilizing the PUD Overlay District shall be subject to the following:

- A. The area of land for the PUD may be controlled by one (1) or more landowners and must be developed under unified control or a unified plan of development.
- B. Any areas designated as private streets and/or common open space, including land, an area of water or a combination of land and water within the site designated for a PUD, shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD; and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.
- C. All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational, or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space, or other standards within the existing land use regulations.
- D. No PUD may be approved by the Town without the written consent of the landowner whose property is included within the PUD.

**2.18.5 General PUD Procedure.**

- A. All PUD applications shall be submitted and processed simultaneously with the processing of subdivision applications for the property per the procedures set forth in Section 2.16. In addition, an application for a rezone shall be processed per Section 2.07.
- B. Rezoning to a PUD shall occur concurrently with a preliminary plat/preliminary PUD development plan. Public hearings for the zoning of a property as a PUD and for preliminary PUD development plan approval may be combined or can occur separately.
- C. Development within a PUD cannot occur unless and until a final plat for the portion of the property to be developed has been approved and recorded as provided in Section 2.16.
- D. Upon approval of a final PUD development plan, the Town Board shall adopt an ordinance establishing the PUD Overlay District for the property in accordance with that plan.
- E. In addition to all of the information required as part of the sketch plan, preliminary plat and final plat application packages, applications for a PUD development plan and PUD Overlay District shall include additional information as outlined below.

*Sketch PUD Development Plan*

**2.18.6 Purpose.** The purpose of the sketch PUD development plan is to provide the Town with a preliminary master plan concept for the proposed development.

**2.18.7 Procedure.** All sketch PUD development plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

A. *Pre-application Conference.* A pre-application conference is required for a sketch PUD development plan application to discuss specific application procedures, criteria, and requirements for a formal application.

B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:

1. A written PUD description as part of the general development information, which includes:
  - a. A list of all subdivision regulation exceptions proposed for the PUD.
  - b. Identification of the underlying zoning districts for the property and a description of any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. If any conditional uses are requested, explain how the conditional use review criteria will be addressed.
  - c. Identification and explanation of the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or if the width of the local street right-of-way is decreased by eliminating on-street parking, then there will be designated parking areas within five hundred [500] feet of all residences, etc.). All proposed benefits must offset the proposed modifications.
  - d. An explanation of how the proposed PUD will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Describe any proposed buffering techniques which serve to achieve such compatibility.
  - e. Any additional relevant information which the Town may deem necessary.

C. *Review and Approval.*

1. Administrative Approval.
  - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
  - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

#### Preliminary PUD Development Plan

**2.18.8 Purpose.** The purpose of the preliminary PUD development plan is to provide the Town with an overall master plan with preliminary engineering detail to ensure all provisions of this Land Use Code can be met.

**2.18.9 Procedure.** All preliminary PUD development plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

A. *Pre-application Conference.* A pre-application conference is not required for a preliminary PUD development plan application.

B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:

1. A written PUD description as part of the general development information which includes:
  - a. A list of all subdivision regulation exceptions being proposed for the PUD and an explanation of why such exceptions are justified.
  - b. Identification of the underlying zoning districts for the property and a description of any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. Provide a comparison between the proposed preliminary PUD plan to the elements and standards of the underlying zone districts as contained in this Chapter. If any conditional uses are requested, explain how the conditional use review criteria will be addressed.
  - c. A description of how the proposed PUD overlay rezoning satisfies one (1) or more of the criteria for amendments to the official zoning map.
  - d. Identification and an explanation of the benefits which will be provided by the PUD to offset the impact of the modifications requested. The proposed benefits must offset the proposed modifications.
  - e. An explanation of how the proposed PUD will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Buffering techniques which serve to achieve such compatibility shall be described.
  - f. An explanation of how the preliminary PUD development plan is consistent with the sketch PUD development plan or, if there are differences, the rationale for the changes.
  - g. Draft copies of owners' association documents (covenants, conditions, restrictions, and any architectural design guidelines) that provide an acceptable program for the continuing maintenance of open space, recreational areas, walkways, and private streets within the PUD that detail the type of organizational structure responsible for such ongoing maintenance and that provide for architectural review based on the design guidelines.
  - h. Any additional relevant information which the Town may deem necessary.
2. Preliminary PUD development plan map. The preliminary PUD development plan map shall be prepared using the preliminary plat map as the base. The base shall include a clear graphic or written representation of:
  - a. All principal, conditional and accessory uses within each land use category within the PUD (i.e., single-family, multi-family, commercial, etc.), either listed specifically or by reference to

the zoning districts within the Town. In particular, any modifications to the principal, conditional, and accessory uses of the underlying zone districts shall be noted.

- b. Standards for principal and accessory uses within each land use category, to include:
  - i. Minimum lot area.
  - ii. Maximum lot coverage.
  - iii. Maximum floor area ratio (total floor area to total lot area).
  - iv. Maximum building height.
  - v. Parking requirements for principal, accessory, and conditional uses.
  - vi. Any additional relevant information which the Town may deem necessary.
- c. Proposed phasing for the development.

C. *Review and Approval.*

1. Planning Commission Recommendation.

- a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.

2. Town Board Approval.

- a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable

from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

### Final PUD Development Plan

2.18.10 **Purpose.** The purpose of the final PUD development plan is to complete the subdivision of land consistent with the technical standards.

2.18.11 **Procedure.** All final PUD development plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a final PUD development plan application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
- C. A written PUD description as part of the general development information, based on the materials submitted for the preliminary PUD development plan and on comments received from the Town at the time of preliminary plan review. All of the items listed above for the preliminary PUD development plan in finalized form shall be included. An explanation shall also be included of how the final PUD development plan is consistent with the preliminary PUD development plan, or if there are differences, the rationale for the changes.
- D. A final PUD development plan map. The final PUD development plan map using the final plat map as the base shall be prepared.
- E. Any additional relevant information which the Town may deem necessary.

2.18.12 **Findings for Approval.**

- A. *Sketch PUD development plan review criteria.* The following review criteria will be used by the Town staff, Planning Commission and Town Board to evaluate all PUD applications at the time of sketch PUD plan/sketch plan review:
  - 1. The proposed benefits offset the proposed exceptions to the zoning and subdivision standards, and the exceptions are in the best interest of the public health, safety, and welfare.
  - 2. The proposed PUD conforms to the PUD restrictions, and the proposed zoning is compatible with the surrounding land uses.
  - 3. The PUD proposes creative and innovative design and high-quality development, thereby protecting and promoting public safety, convenience, health, and general welfare.
  - 4. The uses and densities in the proposed PUD are compatible and will be effectively integrated with adjacent neighborhoods which now exist or are proposed in the future.
  - 5. The proposed PUD is in general conformance with the Comprehensive Plan.
  - 6. One (1) or more of the criteria for amendment of the official zoning map has been satisfied.

- B. *Preliminary PUD development plan review criteria.* In addition to all of the review criteria for a sketch PUD development plan, the following review criteria will be used by the Town staff and Town Board to evaluate all PUD applications at the time of the preliminary PUD plan/preliminary plat:
1. The preliminary PUD development plan is substantially consistent with the sketch development plan as approved by the Town Board.
  2. All sketch PUD development plan conditions of approval have been adequately addressed on the preliminary PUD development plan.
- C. *Final PUD development plan review criteria.* In addition to all of the review criteria for a preliminary PUD development plan, the following review criteria will be used by the Town staff and Town Board to evaluate all PUD applications at the time of the final PUD plan/final plat:
1. The final PUD development plan is substantially consistent with the preliminary PUD development plan as approved by the Town Board.
  2. All preliminary PUD development plan conditions of approval have been adequately addressed on the final PUD development plan.
    - a. Compliance with PUD Overlay District/final development plan. The Town Board may initiate the process to repeal the ordinance establishing the PUD Overlay District if:
      - i. The project for which the PUD overlay zone was established is not carried out pursuant to the approved final PUD development plan; provided, however, that the Town Board may approve appropriate modifications to the final PUD development plan from time to time prior to completion of the proposed development; or
      - ii. Building activity for the PUD Overlay District has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Town Board. (Ord. 11-2007 §1)

## 2.19 Condominium/Townhome Plat

2.19.2 **Purpose.** Condominium or townhome plat approval is intended for adjustments to legal boundaries, easements, and title of property for proper recording. These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.19.3 **Applicability.** Condominiumization or Townhome Plats may be eligible for administrative approval where:

- A. The subdivision is a condominiumization or townhome subdivision.

**2.19.4 Procedure.** All applications for administrative plat review shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.4 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

- A. *Pre-application Conference.* A pre-application conference is required for a condominium or townhome plat application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Application Submittal.* The condominium or townhome plat application shall follow the requirements established in Section 2.08.3.B.
- C. *Review and Approval.* The condominium or townhome plat shall follow the requirements established in Section 2.08.3.C.

**2.19.5 Additional Standards – Condominiumization.** For final condominiumization approval the following additional provisions are needed:

- A. A map showing all common areas (general and limited common elements) and usages of the building and grounds, for the interior division of the building showing horizontal and vertical boundaries of all units, including a distance from a building corner to a property corner or other survey reference; and
- B. A copy of the declaration applicable to the condominium project, as defined in Section 38-33-105, C.R.S. 1973, as amended and/or as may be required pursuant to the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et.seq., as amended.
- C. A copy of the condominium association Articles of Incorporation, bylaws, and covenants. The bylaws and declaration of covenants shall contain the information required by the Condominium Ownership Act of the State of Colorado and the Colorado Common Interest Ownership Act, if applicable. All condominium projects shall comply with this requirement.
- D. A management plan that states:
  - 1. The responsible party for managing the common area;
  - 2. Provisions for selecting, appointing, and securing management; and
  - 3. Responsibilities and duties of the management entity.
- E. A maintenance plan that states:
  - 1. The responsible entity for repair and maintenance of common areas;
  - 2. What will be included in the maintenance program, including but not limited to provisions for snow removal, trash removal, maintenance of pools, hot tubs, common areas and other amenities; and
  - 3. The mechanism used to fund the management and maintenance activities of the development.
- F. In addition, if there are any restrictive covenants, conditions, or restrictions other than specified in the declaration, they shall be filed concurrently with the filing of the final plat.

## 2.19.6 Additional Standards – Townhomes.

- A. A townhome lot may be subdivided prior to the construction of the foundation provided that:
  - 1. The final plat of any such townhome lot shall contain a plat note that provides as follows:
    - a. Pursuant to Section 4.02.8.G of the Town of Wellington Code, the townhome lot identified hereon as “ \_\_\_\_\_ ” has been subdivided prior to the construction of the townhome or its foundation. Pursuant to said section, the owner(s) of the townhome lot, as well as the owner(s) of any property that abuts the townhome lot must, within ninety (90) days after the construction of the foundation for the townhome, have a survey of the location of the foundation prepared and make a subdivision plat amendment application to the Town that shall cause the townhome lot depicted on the plat to be coterminous with the foundation of the townhome as constructed; and
    - 2. Within ninety (90) days after the construction of the foundation for the townhome, the owner(s) of the townhome lot shall have a survey of the location of the foundation prepared and, along with the owner(s) of any property that abuts the townhome lot, shall make and pursue to completion an application to the Town to amend the plat of the townhome that causes the townhome lot to be coterminous with the foundation of the townhome as constructed.
- B. With respect to a townhome lot that has been subdivided prior to the construction of the townhome or its foundation, it is unlawful:
  - 1. For the owner(s) of the lot to fail to, within ninety (90) days after the construction of the foundation, have a survey of the location of the foundation prepared; and
  - 2. For the owner(s) of the lot and the owner(s) of any property that abuts the townhome lot, to fail to, within ninety (90) days after the construction of the foundation, make and pursue to completion an application to the Town to amend the plat of the townhome lot that causes the townhome lot to be coterminous with the foundation of the townhome as constructed.
- C. For final townhome plat approval the following additional provisions are needed:
  - 1. A map showing all common areas (general, limited common area), usages of the building and grounds, and the building showing horizontal boundaries for the interior division of all unit;
  - 2. A copy of the Townhome Association Articles of Incorporation, bylaws, and covenants;
  - 3. A management plan that states:
    - a. The responsible party for managing the common area;
    - b. Provisions for selecting, appointing, and securing management; and
    - c. Responsibilities and duties of the management entity.
  - 4. A maintenance plan that states:
    - a. The responsible entity for repair and maintenance of common areas;

- b. What will be included in the maintenance program, including but not limited to provisions for snow removal, trash removal, maintenance of pools, hot tubs, common areas and other amenities; and
  - c. The mechanism used to fund the management and maintenance activities of the development.
- D. In addition, if there are any restrictive covenants, conditions, or restrictions other than specified in the declaration, they shall be filed concurrently to filing of the final plat; and
- E. A copy of the declaration applicable to the townhome project, as defined in Section 38-33-105, C.R.S. 1973, as amended and/or as may be required pursuant to the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et. seq., as amended.

#### 2.19.7 Findings for Approval.

- A. The condominium or townhome plat is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The condominium or townhome plat shall be meet the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- C. The condominium or townhome plat shall not result in new or increased nonconformities;
- D. The condominium or townhome plat shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
- E. The condominium or townhome plat has no effect on the conditions applied to the approval of the plat and does not violate any Code requirement; and
- F. The condominium or townhome plat is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

## 2.20 Revised Final Plat

2.20.2 **Purpose.** Revised final plat approval is intended for revisions to legal boundaries, easements, and title of property for proper recording. These revisions are within ownership patterns or development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.20.3 **Applicability.** 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 were 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.

**2.20.4 Procedure.** All revised final plat applications shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.4 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

- A. *Pre-application Conference.* A pre-application conference is required for a revised final plat application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Application Submittal.* The revised final plat application shall follow the requirements established in Section 2.08.3.B.
- C. *Review and Approval.* The revised final plat application shall follow the requirements established in Section 2.08.3.C.

**2.20.5 Findings for Approval.**

- D. The revised final plat is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- A. The revised final plat shall be meet the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- B. The revised final plat shall not result in new or increased nonconformities;
- C. The administrative plat shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
- D. The revised final plat has no effect on the conditions applied to the approval of the plat and does not violate any Code requirement; and
- E. The revised final plat is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

## **2.21 Annexation**

**2.21.2 Purpose.** This Section establishes the procedure to bring land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965, as amended. (Ord. 11-2007 §1)

**2.21.3 Responsibilities of Applicant.** In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Annexation Act of 1965, as amended, all applicants shall have the following responsibilities:

- A. The applicant is responsible for having a representative at all meetings where the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting.
- B. The applicant shall consult with the Planning Department to discuss any special conditions pertaining to the annexation and to obtain an annexation petition. (Ord. 11-2007 §1)

**2.21.4 Procedure.**

- A. *Pre-application Conference.* A pre-application conference is required for an annexation application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Annexation Petition Submittal.* At least fifteen (15) days prior to the presentation of any annexation petition to the Town Board, the applicant shall submit to the Town an annexation petition including:
  - 1. An Annexation Map depicting at a minimum the property boundaries, location of existing buildings, parking, utilities, and easements as well as current and proposed zoning and land use categories.
  - 2. A Master Plan depicting the preliminary design of the proposed use including lot and block layout and proposed residential density.
  - 3. A request for zoning of the area pursuant to Section 2.07, to be reviewed concurrently with the annexation.
  - 4. Supportive information. The following supportive information shall be submitted with the annexation map and master plan:
    - a. Soils description and limitation.
    - b. Preliminary utility plan.
    - c. Statement on community need for proposed annexation and zoning.
    - d. For all annexations in excess of ten (10) acres, the applicant shall obtain from the school district governing the area to be annexed a statement of the effect of the annexation upon the school district, including an estimate of the number of students generated by the proposed annexation and the capital construction required to educate such students. (Ord. 11-2007 §1) (Ord. No. 5-2008, § 1, 3-11-08)
- C. *Review and Approval.*
  - 1. The Planning Director or designee shall review all documents submitted for completeness and accuracy.
  - 2. Once it is determined that the annexation petition is complete and accurate, the Planning Director or designee shall present the annexation petition and a resolution initiating annexation proceedings to the Town Board, which shall thereafter establish a date for a public hearing.

3. Upon the establishment of a public hearing date, the notice shall be given in accordance with the Colorado Municipal Annexation Act of 1965, as amended, and shall specifically direct copies of the annexation petition and the resolution initiating the annexation procedure by certified mail to the Clerk of the Larimer County Board of County Commissioners and to the Larimer County Attorney. Copies of the annexation petition and the resolution initiating the annexation procedure shall also be sent by certified mail to any school district or special district having territory within the annexed area. These copies shall be sent at least twenty-five (25) days prior to the public hearing.
4. The Planning Director or designee shall furnish the annexation map and the master plan to the following entities and may submit copies of the annexation map and the master plan to additional interested entities at their discretion. Such entities shall be advised by the Planning Director or designee of the scheduled hearing date and shall further be notified that any objections to the annexation and master plan must be submitted to the Town in writing no later than seven (7) days after receipt of the annexation map and master plan:
  - a. Telephone companies.
  - b. Franchise utility companies.
  - c. Town Engineer.
  - d. Fire Department.
  - e. Town Water and Sewer Department.
  - f. Colorado Department of Transportation.
5. Planning Commission Recommendation.
  - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
  - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
  - c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
6. Town Board Approval.

- a. The Town Board shall hold a public hearing and review the application at a regular meeting. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

#### **2.21.5 Annexation Impact Report.**

- A. For all annexations in excess of ten (10) acres, the Town shall prepare an impact report regarding the proposed annexation not less than twenty-five (25) days before the date of the annexation hearing. One (1) copy of the impact report shall be filed with the Larimer County Board of County Commissioners within five (5) days thereafter. The preparation and filing of the annexation impact report may be waived upon approval of the Larimer County Board of County Commissioners.
- B. The annexation impact report shall include the following:
  1. A map or maps of the Town and adjacent territory showing the following information:
    - a. The present and proposed boundaries of the Town in the vicinity of the proposed annexation.
    - b. The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.
    - c. The existing and proposed land use pattern in the areas to be annexed.
  2. A copy of any draft or final pre-annexation agreement, if available.
  3. A statement of the Town's plans for extending or providing for municipal services within the area to be annexed.
  4. A statement of the Town's plans for the financing of municipal services to be extended into the area to be annexed.
  5. A statement identifying all existing districts within the area to be annexed.
  6. A statement of the effect of the annexation upon the school district governing the area to be annexed, as is more fully set forth in Paragraph 15-1-30(d)(7) above. (Ord. 11-2007 §1)

**2.21.6 Consideration of Annexation Ordinance.** Upon the submission of documentation in accordance with this Chapter and upon compliance with the notice and hearing requirements as set forth in the Colorado Municipal Annexation Act of 1965, as amended,

the Town Board may consider the approval of an ordinance annexing the subject property to the Town. If the Town Board considers and disapproves the ordinance, no similar request may be heard for a period of one (1) year from the date of denial. (Ord. 11-2007 §1)

#### 2.21.7 Findings for Approval.

1. The annexation is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
2. The annexation shall not create any additional cost or burden on then-existing residents of the Town to provide public facilities and additional community services in any newly-annexed area;
3. The applicant has demonstrated that they arranged with the school district regarding the dedication of school sites, or payment of fees in lieu of said dedication, as may be agreed to among the applicant, the school district, and the Town;
4. All existing and proposed streets in newly annexed territory shall be constructed in compliance with all current Town standards unless the Town determines that the existing streets will provide appropriate access during all seasons of the year to all lots fronting on each street; and that the curbs, gutters, sidewalks, bike lanes, culverts, drains, and other structures necessary to the use of such streets or highways are satisfactory or not necessary to promote public safety. The location, type, character and dimensions of all structures and the grades for all existing or proposed street work shall be subject to approval by the Town;
5. The annexation is in the best interest of the citizens of the Town of Wellington; and
6. The annexation is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.21.8 **Final Submission.** If the Town Board approves an annexation ordinance, the applicant shall submit to the Planning Department the final annexation map and master plan within ten (10) days of the effective date of the annexation ordinance. (Ord. 11-2007 §1)

## 2.22 Variance

2.22.2 **Purpose.** A variance provides relief from the strict application of a standard to a specific site that would create an unnecessary hardship or practical difficulties on all reasonable use of the property.

2.22.3 **Applicability.** Variances may be sought for relief from dimensional and numerical standards of this Land Use Code. Variances may not be sought to vary the allowed use on a property.

**2.22.4 Procedure.** All applications for Variances shall comply with the following specific procedures in addition to the general procedures set forth in Section 2.04.

A. *Pre-application Conference.* A pre-application conference is required for a variance application to discuss specific application procedures, criteria, and requirements for a formal application.

B. *Application Submittal.* The variance application shall include:

1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all regulations and development standards applicable to the proposed zoning district;
2. A written narrative justifying why the proposed variance fits in with the surrounding neighborhood;
3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
4. Any other information identified in the pre-application meeting.

C. *Review and approval.*

1. Planning Commission Recommendation.

- a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
- d. The review of a development permit may occur concurrently with review for a general rezone or other land development application.

2. Town Board Approval.

- a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.

- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

#### 2.22.5 Findings for Approval.

- A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. 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;
- C. 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;
- D. 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;
- E. 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;
- F. Granting the variance will not harm the public health, safety and welfare or the purposes and intent of these regulations;
- G. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; and
- H. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

### 2.23 Appeals

2.23.2 **Purpose.** This section sets forth the process for appealing land use decisions made by any applicant, administrative official, board, or commission under this Code.

2.23.3 **Applicability.** An appeal application may be initiated by any person aggrieved by a final decision made by an administrative officer or agency, based upon or made in the course of the administration or enforcement of this Code. Appeals are made in accordance with C.R.S. § 31-23-307.

- A. Appeals may be taken by any officer, department, board, or commission of the Town affected by the grant or refusal of the building permit, or by other decision of the administrative officer or agency, based on or made in the course of administration or enforcement of this regulation.
- B. *Appeal of Administrative Decisions.* Appeals of all administrative decisions shall be to the Board of Adjustment.
- C. *Appeal of Planning Commission Decisions.* Appeals of all Planning Commission decisions shall be to the Town Board.
- D. *Appeal of Town Board Decisions.* Appeals of any final decision by the Town Board decisions made pursuant to this Code shall be to the District Court in the manner set forth in the Colorado Rules of Civil Procedure.

#### 2.23.4 Procedure.

- A. *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.
- B. *Application Submittal.* Appeals shall be:
  - 1. Made in writing and submitted to the Planning Director stating the specifics of the appeal, the grounds for the requested relief, and include all pertinent records of the decision.
  - 2. Made within 7 days of the final decision.
  - 3. Demonstrate that the decision is final and that all other administrative remedies have been exhausted.
- C. *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.
  - 1. Upon submittal of a formal application, staff shall only review the application to confirm that it is complete and that the appeal is heard by the appropriate review body. The staff report shall not make a formal recommendation, but rather shall include only the necessary facts to warrant an appeal, which shall be provided by the appellant.
  - 2. The appellant has the burden of proving the necessary facts to warrant approval of an appeal by the appropriate decision-making body. Such proof shall be provided at time of a written application with the non-refundable application fee. If the appellant fails to provide facts warranting an appeal, the application shall be rejected.
  - 3. An appeal stays all proceedings from further action unless the Town Administrator determines that a stay would create adverse impacts to the health, safety, and welfare of the Town or subject neighborhood.
- D. *Public Hearings.*

1. The Town Board shall review the application subject to the criteria in this section. Upon the close of the public hearing the Town Board shall either affirm the decision of the administrative official or Planning Commission, affirm the decision of the administrative official or Planning Commission with specific conditions and modifications, overturn the decision of the administrative official or Planning Commission and make the decision that the Town Board determines should be made, or continue the application to collect additional information pertinent to the application or to take the matter under advisement.
  - a. If the hearing is postponed, new notice shall be required.
  - b. The continued hearing shall occur at the next Town Board regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be postponed more than once by the Town Board without the applicant's consent.
2. No decision of the Town Board may exceed the authority granted to the administrative official or Planning Commission under these regulations,
3. The appeal authority may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.
4. The appeal authority may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the Town.

**2.23.5 Findings for Approval.** In reviewing and determining whether to affirm, reverse, or amend a decision of another decision-making body, the current decision-making body shall consider the following findings:

- A. Whether the decision of the administrative official or Planning Commission was a clear error, as opposed to fairly debatable, according to the provisions of these regulations.
- B. The interpretation instructions of these regulations.
- C. The purposes, intent, and design objectives of any standards that are subject to the appeal.
- D. The record on the application, including the official plans and policies of the Town used to evaluate the application or make the decision.
- E. Whether the final decision and the grounds for relief requested in the appeal are within the authority granted by these regulations.
- F. 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.

**2.23.6 Post Decision Actions.** Any further appeals from the appropriate appeal authority shall be made as provided by law.

## 2.24 Special Review

2.24.2 **Purpose.** Special Review approval provides an administrative process for approving permitted uses that have specific design standards associated with them

2.24.3 **Applicability.** Because of their unusual or special characteristics, special uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this section assures compatibility and harmonious development between conditional uses, surrounding properties and the Town's goals and policies. Special review uses may be permitted subject to compliance with standards specified in Chapter 4 to ensure compatibility with surrounding uses.

2.24.4 **Procedure.** All special review applications shall comply with the following specific procedures in addition to the general application procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is optional for a conditional use application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a special review application shall include the following:
  - 1. A written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
  - 2. A map showing the proposed development of the site, including any applicable topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
  - 3. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance, and scale of all buildings.
  - 4. Such additional material as the Planning Director or designee may prescribe or the applicant may submit pertinent to the application.
- C. *Review and Approval.*
  - 1. Administrative Approval.
    - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
    - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.24.5 **Findings for Approval.**

- A. The use is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
- C. The use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.
- D. The use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
- E. Potential negative impacts of the use on the rest of the neighborhood or of the neighborhood on the use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods.
- F. The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained.

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