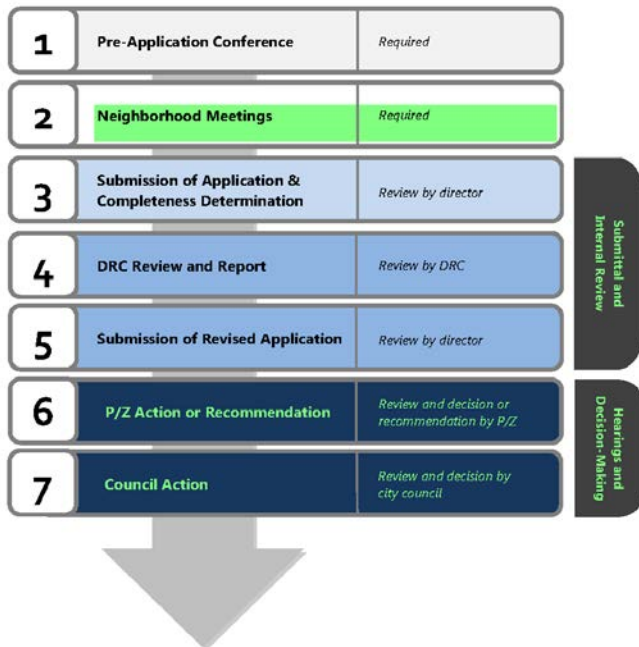


## 15.02.050 - Core Review Procedures

Formatted: Font: 22 pt

- A. **Applicability.** Development applications are classified as major, minor, or administrative as indicated in Table 2.1. Each classification of application shall follow a core review procedure, as described in subsections B—D of this section, except where deviations for a specific type of development application are provided in this chapter.
- B. **Core Review Procedures for Major Development Applications.** The following review procedures (summarized in Figure 2.1) apply to all major development applications unless specified elsewhere in this chapter:

Figure 2.1: Major Development Applications



### 1. Step 1: Pre-Application Conference.

- Purpose.** To provide an opportunity for the applicant and the city to discuss the development proposal, application materials and submittal requirements, the time frame for the review process, and the number and timing of any required neighborhood meetings.
- Applicability.** A pre-application conference is required for all major development applications.
- Request for a Pre-Application Conference.** The applicant shall submit a pre-application form and other materials required by the director; the pre-application conference will be scheduled for the next available meeting date.

- d. **Director Review and Recommendations.** The director shall provide the applicant with a summary of the pre-application conference, including any necessary submittal requirements.

2. **Step 2: Neighborhood Meetings.**

- a. **Intent and Purpose.** To facilitate participation early in the development review process between applicants and citizens of neighborhoods potentially affected by the development proposal.
- b. **Timing and Number of Neighborhood Meetings.**
  - i. At least one neighborhood meeting shall be held after the pre-application conference, before submittal of a formal application, unless the director waives the neighborhood meeting.
  - ii. The director may require additional pre- or post-application neighborhood meetings, or may waive the neighborhood meeting requirement, based on the proposed development's lack of effect on surrounding properties, mix of uses, density, complexity, potential for adverse impacts, or the need for off-site public improvements created by the development.
- c. **Notice of Neighborhood Meeting.**
  - i. The applicant is responsible for scheduling the neighborhood meeting. Written notice of the neighborhood meeting shall be according to subsection 15.02.040.J.
  - ii. If available, neighborhood meetings should be held in an accessible facility in the vicinity of the proposed development.
  - iii. The applicant's failure to provide proper notice or to hold and complete all required neighborhood meetings shall preclude further review of the application and may result in an inactive application under subsection 15.02.040.F, inactive applications, above.
  - iv. The neighborhood meeting requirement shall be considered satisfied even if no one attends the meeting for which proper notice was given.
- d. **Conduct of Neighborhood Meeting.** The applicant shall present a summary of the development proposal, answer questions and receive comments from persons attending the meetings.
- e. **Summary of Neighborhood Meeting.** The applicant shall prepare a written summary of the neighborhood meeting(s), which shall include the following:
  - i. Dates and locations and the number of people that attended and a copy of the sign-in sheet;
  - ii. The substance of the comments and questions; and
  - iii. How the applicant addressed or intends to address the comments and questions, including the reasons why the applicant is unwilling or unable to address specific comments or questions.

3. **Step 3: Submission of Application/Completeness Determination.**

- a. The applicant shall submit a complete application and all applicable submittal material in one package to the planning and development services department.
  - i. The director shall review an application for completeness, and if determined to be complete, it shall then be processed under this chapter.
  - ii. The director shall return an incomplete application to the applicant and identify how the application is deficient.

- b. Once submitted, the applicant shall not make any changes to the application or any accompanying plans or information, except those requested by the director.

4. **Step 4: DRC Review and Report.**

- a. **DRC Review.** The DRC shall review the application for technical accuracy, compliance with this development code and other relevant city regulations and ordinances and provide their comments and written recommendation to the project manager. The DRC shall also obtain comments from outside agencies and utility providers regarding the application as necessary.
- b. **Subsequent Information and Reviews.**
  - i. At any time the DRC may request additional information from the applicant or revisions or corrections to previously submitted materials if they are inaccurate, incomplete, or if subsequent plan revisions do not comply with this development code.
  - ii. The application may be subject to additional review(s) by the DRC if the additional information or revisions do not comply with the development code or do not mitigate the adverse impacts from the development proposal.

5. **Step 5: Submission of Revised Application.**

- a. If necessary, the applicant shall submit a revised application addressing each comment contained in the DRC report to the project planner. No further processing of the application shall occur until a complete revised application is submitted.
- b. The revised application shall be reviewed as above, and the project manager shall send the applicant any recommendations or conditions for approval to eliminate any areas of noncompliance or to mitigate any adverse impacts from the development proposal.
- c. The applicant shall submit a written response to the conditions of approval, if any.
- d. Scheduling for review and/or decision-making body action.
  - i. Once DRC has completed its reviews, the project planner shall schedule the development application for hearing on the next available regular meeting agenda before the applicable review or decision-making body. Public notice of the hearing shall be given under the requirements stated in subsection 15.02.040.J, notices, above.

6. **Step 6: P/Z Action or Recommendation.**

- a. **Applicant's Submittals.**
  - i. The applicant shall submit the documents required to be included in the public hearing report by the deadline specified by the project planner.
  - ii. Materials submitted after the deadline may be sent to the P/Z, or may be cause to remove the application from the P/Z agenda to provide more time to review and respond to these materials.
- b. **Staff Preparation of P/Z Communication.** After the applicant's submittal for the P/Z hearing, staff shall prepare a communication for the public hearing which shall:
  - i. Include the written summary of any neighborhood meetings;
  - ii. Report whether the development application complies with all applicable standards;
  - iii. Specify any areas of noncompliance; and
  - iv. Provide staff's recommendation for application approval, approval with conditions, or denial. Conditions for approval may be recommended to eliminate any areas of noncompliance or to mitigate any adverse impacts from the development proposal.

- c. **Distribution of Public Hearing Report.** The city shall make the public hearing report available to the applicant, the applicable review- or decision-making body, and the public at least five days prior to the public hearing on the application.
- d. **Public Hearing.** A public hearing is required for any application on which the P/Z makes a final decision, but not those for which P/Z makes only a recommendation to the city council.
- e. **Decisions (Quasi-Judicial).** The P/Z has decision-making authority over applications for conditional uses, preliminary plats, overall development plans, and most variances with the exception of properties adjacent to any city owned parks, greenways and open space. For these applications subject to P/Z review:
  - i. The P/Z shall consider the development application and the evidence from any public hearing, and then take action.
  - ii. The P/Z shall approve, approve with conditions, or deny the development application based on its compliance or noncompliance with applicable review standards.
- f. **Effect of P/Z Denial.** The denial of a development application by the P/Z is final and that same request or one substantially the same may not be considered by the city for a period of one year from the date of denial, unless the P/Z's denial is overturned by the city council on appeal, or unless the P/Z's denial explicitly states that an earlier re-application will be considered.
- g. **Recommendation.** For all other major applications, including those adjacent to any city owned park, greenway and open space, the P/Z has authority only to recommend action to the city council. For these applications, the P/Z shall recommend either approval, approval with conditions, or denial of the development application based on its compliance or noncompliance with the applicable review standards.

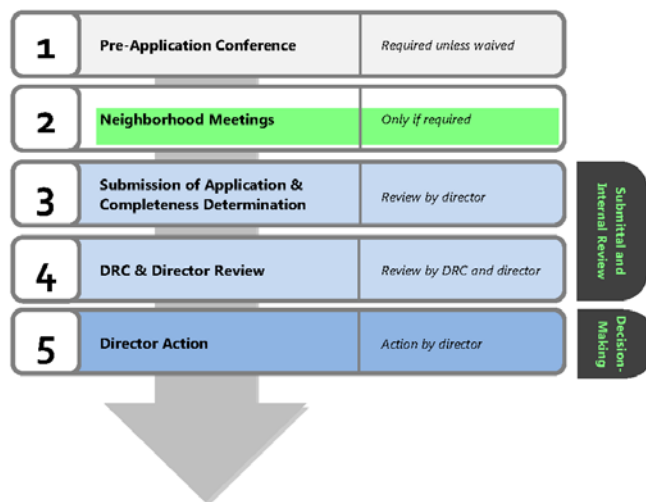
**7. Step 7: City Council Action.**

- a. **Decisions.** The city council has decision-making authority over all major development applications for which decision-making authority has not been delegated to the P/Z above. These include annexations, comprehensive plan amendments, land development code amendments, rezonings, concept plan amendments, rezoning to PUD, TDRs, and vacations, SES variances and major development applications adjacent to city owned parks, greenways and open space. Actions for which the city council has decision-making authority shall be considered and acted upon by ordinance in compliance with the Longmont Municipal Charter. The city council shall take final action by approving, approving with conditions, or denying the application based on its compliance with the appropriate review standards.
- b. **Appeals.** For procedures governing appeals to the city council from P/Z final decisions, please see subsection 15.02.040.K, appeals, above.
- c. **Effect of City Council Denial.** If the city council denies an application, that same request or one substantially the same may not be considered by the city for a period of one year from the date of denial, unless the city council's denial explicitly states that an earlier re-application will be considered.

**C. Core Review Procedures for Minor Development Applications.**

- 1. **Review Procedure for Minor Development Applications.** All minor development applications shall be reviewed according to Steps 1 and 3 in subsection B above, and then under the steps outlined below (summarized in Figure 2.2). The director may waive Step 1 in subsection B above, based on a determination that the proposed development would not have adverse impacts on neighboring properties. The director may require Step 2 in subsection B above, based on a determination that the proposed development may have adverse impacts on neighboring properties.

Figure 2.2: Minor Development Applications



a. **Step 4: DRC Review.**

i. **Applicability.**

- (A) The director shall refer all minor applications to the DRC for review and recommendation.
- (B) The DRC shall review the application for technical accuracy, compliance with this development code and other relevant city regulations and ordinances and provide comments and written recommendations to the project planner.

- ii. **Director Review.** The director shall review the recommendations of the DRC and, if necessary, require the applicant to submit a revised application. In this case, the applicant shall submit a revised application addressing each comment contained in the DRC report. No further processing of the application shall occur until the revised application is submitted.

b. **Step 5: Director Final Action.**

- i. After the DRC completes its review, the director shall review the application for compliance with the adopted review criteria, this development code, and other relevant city regulations and take final action to approve, approve with conditions, or deny the application.
- ii. The director shall notify the applicant of the final action and time frames and procedures for appeals, and shall advise the applicant, if no appeal is filed, that the applicant must satisfy or accept all conditions of approval prior to issuance of a building permit.

- 2. **Authority to Refer to P/Z for Public Hearing.** At the director's discretion, based upon a consideration of the proposed development's potential adverse impacts, mix of land uses, or need for off-site public improvements, the director may refer the application to the P/Z for public hearing and final action. In this case, the application should be scheduled for hearing at the next regular meeting before the decision-making body, or as soon thereafter as meeting agendas

allow. Appeals of decisions on such referred applications shall be as if the referred-to body was the decision-making body in the first instance.

- D. **Review Procedures for Administrative Applications.** The decisionmaker on an administrative application shall only act upon an administrative application once all requested submittal materials have been received. The decisionmaker shall approve or deny the application ministerially, based on the review criteria. Should the decisionmaker determine that deciding on administrative permit application requires material use of discretion, the decisionmaker shall subject such application to the procedures applicable to minor applications.

## 15.02.060 - Review Standards and Procedures for Specific Major Development Applications

Formatted: Font: 22 pt

### A. Annexations.

1. **Review Procedures.** An application for annexation shall follow the core review procedures for major development applications, except for the following:
  - a. **After Step 1 (Pre-Application Conference).** The annexation application shall be referred to the city council to determine whether the public interest is served by considering the annexation request further. If the answer is no, the annexation application shall only be reviewed for statutory compliance, unless the applicant withdraws the petition.
  - b. **City-Initiated Annexations.** Annexations initiated by the city of enclaves, property owned by the city or under lease to the city with an option to purchase, and property predominantly containing a city-managed or -operated facility are exempt from Steps 1 through 6 of the core review procedures for major development applications, as well as the referral procedure of subsection A.1.a, above.
2. **Additional Review Criteria.** Annexations shall also comply with the following additional criteria. However, annexation is a discretionary, legislative act. The city shall never be compelled to annex, unless otherwise required by state law, even if all these review criteria have been satisfied.
  - a. The annexation complies with the Municipal Annexation Act of 1965, as amended (C.R.S. § 31-12-101 et seq.).
  - b. The property is within the municipal service area (MSA) or the Longmont Planning Area (LPA) as stated in the comprehensive plan. No property outside of the MSA or LPA shall be considered for annexation unless the city council finds that, consistent with the comprehensive plan, the best interests of the city would be served by annexation of such property, and a land use plan for the area proposed to be annexed is submitted together with the annexation application.
  - c. The proposed zoning is appropriate, based upon consideration of the following factors:
    - i. The proposed zoning is consistent with the comprehensive plan designation of the property; and
    - ii. The proposed land uses are consistent with the purpose and intent of the proposed zoning district.
  - d. The annexation will not limit the ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed.
  - e. Unless otherwise agreed to by the city, the landowner has waived in writing any preexisting vested property rights as a condition of such annexation.
  - f. The property to be annexed meets the environmental requirements of section 15.02.140.
  - g. City-initiated annexations shall conform to C.R.S. § 31-12-106 and the annexation ordinance shall include an annexation map meeting the requirements of C.R.S. § 31-12-107(1)(d).
3. **Concept Plan Required.** All annexation applications, except city-initiated annexations, shall include a concept plan which shall be referenced and approved by the annexation ordinance. Development of the subject property shall be consistent with the concept plan, unless city council amends it by ordinance. At a minimum, a concept plan shall include the items listed in this development code, the administrative manual and the following general information:

- a. Appropriate land use, utility, and transportation design, including multi-modal transportation access, given the existing and planned capacities of those systems;
  - b. Mitigation of potential adverse impacts on surrounding properties and neighborhoods; and
  - c. Mitigation of potential adverse impacts on the environment.
4. **Annexation Agreement Required.** As a prerequisite for annexation, a city-approved annexation agreement shall be signed by all owners of the subject property, except annexations of city-owned property or property the city is leasing under a lease-purchase agreement, city-initiated annexation of enclaves, or when the requirement is waived by the city council. The annexation agreement represents the applicant's proposed performance to induce the city council to act favorably on the proposed annexation. The accompanying zoning and concept plan are part of the applicant's inducement offer and shall be an integral part of the annexation agreement. The annexation agreement shall detail the mutual understanding about the annexation including, but not limited to, the following matters:
- a. Density or intensity of development and land use mix, including:
    - i. Designation of the density distribution within the parcel to be annexed; and
    - ii. A condition that residential developments comply with applicable affordable housing requirements;
  - b. Phasing of the development in general terms;
  - c. Drainage, detailing major improvements required, participation in the storm drainage utility, participation in existing improvements, and how drainage requirements will be satisfied;
  - d. Streets and bikeways, detailing participation in existing and proposed improvements, dedication of perimeter rights-of-way and timing of such, major street improvements required and designation of responsibility for construction, treatment of local, interior street and rights-of-way, responsibility for construction or participation in traffic signals and other traffic-control devices, and payment for any transportation or site access studies or any addenda;
  - e. Utilities, detailing participation in existing systems, major improvements to be constructed, dedication of necessary easements and timing of such, and utilities required;
  - f. Landscaping, detailing responsibility and scheduling of arterial and collector street landscaping and primary greenway development, and maintenance of such facilities;
  - g. Fire protection, detailing responsibility for fire protection measures;
  - h. Land dedication and/or reservation, designating land for public purposes including but not limited to, streets, utilities, parks, schools, greenways, or cash-in-lieu agreements. Land reserved for future park purchase will be paid at fair market value with the appraisal value determined by pre-annexation raw land value;
  - i. Exclusion from special districts and acknowledgement of the property owner's responsibility in securing exclusion;
  - j. Inclusion of property in the municipal subdistrict, Northern Colorado Water Conservancy District and acknowledgement of applicant's consent and agreement to perform all acts to obtain inclusion;
  - k. Special districts, all agreements concerning special districts projected to be created within the city limits, including, but not limited to, applicant's agreement to use any district for installation, construction warranty, and repair of public improvements;
  - l. Vested rights and growth management:

- i. Specifying that the city's action in annexing the property and approving the concept plan and zoning do not create a vested right as defined in the Colorado Revised Statutes or other city regulation or ordinance;
- ii. Specifying that, unless otherwise agreed to by the city, the landowner requesting annexation shall waive any pre-existing vested property rights as a condition of such annexation; and
- iii. Specifying that the annexed property will be subject to any future phasing or growth management regulations that may be adopted by the city.
- m. Enforcement, specifying that the agreement is binding on heirs, successors and assigns;
- n. Noncontestability clause detailing reliance by all on the agreement and providing for disconnection of the annexation, at the option of the city, upon noncompliance or nonperformance by the applicant;
- o. Other issues as may be unique to the property including, but not limited to, necessary off-site improvements, railroad and river crossing improvements, relocation or maintenance of irrigation ditches and laterals, and purchase of existing electric facilities and/or electric service territory; and
- p. Other issues as may be necessary to evidence compliance with this section and this development code.

5. **Annexation Not Final Until Satisfaction of All Requirements.**

- a. City action on the annexation application shall not become final unless all requirements of the annexation ordinance, this development code and state statutes have been satisfied, as certified by the director, within the time specified in the ordinance, or if no time is specified then within one year of city council's adoption of the ordinance.
- b. Unless approval has lapsed, when all requirements have been satisfied, the ordinance, the annexation agreement, and the annexation map shall be recorded with the county clerk and recorder, and the annexation will then be final.

B. **Comprehensive Plan Amendments.**

- 1. An amendment to the comprehensive plan may include any of the following:
  - a. **Comprehensive Plan Text Amendment.** An amendment to the text of the plan. The city can initiate comprehensive plan amendments, and private parties may request the city council to initiate an amendment.
  - b. **Land Use Amendment.** An amendment to the plan's land use designation for specific properties or to the plan's transportation system. A land use amendment is often necessary in conjunction with rezoning requests and occasionally with annexation requests. Both private parties and the city can initiate land use amendments.
  - c. **Longmont Planning Area Amendment.** An amendment to add new land areas and land use designations to the Longmont Planning Area. Both private parties and the city can initiate Longmont Planning Area amendments.
  - d. **Municipal Service Area Amendment.** An amendment that adds land in the Longmont Planning Area to the municipal service area. A municipal service area amendment is not required for annexations as annexed land is automatically transferred to the municipal service area. Only the city can initiate municipal service area amendments.
- 2. **Review Procedure.** Applications for comprehensive plan amendments shall follow the core review procedures for major development applications, except:
  - a. The director may limit the timing and frequency of when comprehensive plan amendments are considered, consistent with the comprehensive plan.

- b. Longmont Planning Area amendments shall be referred to the city council, before processing, to determine whether it is in the best interests of the city to devote staff and P/Z resources to a full review of the application.
  - c. Applications for text amendments and municipal service area amendments may also be referred to the city council before the city begins to process the application.
  - d. Legislative comprehensive plan amendments, as described in subsection 15.02.030.A.2, are exempt from steps 2 through 5 of the core review procedures for major developments provided in subsection 15.02.050.B (step 2: neighborhood meetings; step 3: submission of application/completeness determination; step 4: DRC review and report; step 5: submission of revised application).
3. **Review Criteria Clarification.** Proposed comprehensive plan amendments need not be consistent with the existing comprehensive plan, but must serve the best interests of the city.

C. **Conditional Uses.**

- 1. **Review Procedure.** Applications for a conditional use shall follow the core review procedures for a major development application and shall be processed in accordance with 15.02.050.B.6.e and g concurrently with an application for site plan review, as applicable, as indicated in subsection 15.02.070.C.
- 2. **Authority to Impose Conditions to Ensure Compliance with Standards.** As with other types of application, the decision-making body may impose conditions on a proposed conditional use to ensure compatibility and to ensure that potential adverse impacts on surrounding uses, properties, public health or safety, the environment, or the district will be substantially mitigated. Conditions may include, but are not limited to, measures addressing the amount or location of secondary uses, outdoor activity or storage; location on a site of activities that generate noise, odor, vibration, glare, or other adverse impacts; location of buildings or structures generally; and hours of operation and deliveries.
- 3. **Conditions for Time Limits/Review.** The decision-making body may also impose time limits on conditional uses and require regularly scheduled reviews of approved conditional uses.
- 4. **Conditions of Approval Binding.** The restrictions and conditions of approval shall be placed on the conditional use site plan, shall be binding on the applicant, the applicant's successors and assigns, and shall run with the land. The notice of approval of the site plan shall be recorded at the county clerk and recorder's office.
- 5. **Discontinuance.** If a conditional use is extinguished, or discontinued for a period of one year, the conditional use permit shall automatically lapse and be null and void.
- 6. **Changes to Approved Conditional Uses.** Building additions or site changes on existing approved conditional uses that do not constitute a substantial change to the use, and that do not create or can adequately mitigate potential adverse impacts on surrounding properties or neighborhoods, as determined by the director, may be reviewed as a site plan amendment according to subsection 15.02.070.C. However, expansion of a conditional use onto a different lot or parcel, not previously part of the conditional use approval, shall require review under this subsection.

D. **Land Development Code (Text) Amendments.**

- 1. **Initiation.** The city council, city manager, staff, or the P/Z may initiate applications for text amendments to the development code. Private parties may request that city council initiate a text amendment.
- 2. **Review Procedures.** Applications for text amendments to the development code do not follow the core review procedures for development applications, stated in section 15.02.050 above. Instead:
  - a. The city council or director may request P/Z review and recommendation.

- b. The city staff shall prepare an ordinance, including any P/Z recommendation, and schedule the ordinance for city council's consideration pursuant to the provisions of the Longmont Municipal Charter.
- 3. **Review Criteria.** The sole review criterion for proposed text amendments to the development code is that the proposed amendment is consistent with the purpose and intent of this development code set out in section 15.01.030 above.
- 4. **Development Applications Pending an Application for an Ordinance Amending this Development Code.**
  - a. When a proposed ordinance that adds restrictions on or changes to permitted uses or standards in a zone district is introduced to city council, or when the city council directs staff or the P/Z to draft or consider such an ordinance, no development applications that would result in nonconforming uses, structures or affected standards if the proposed ordinance is approved shall be accepted by the city for a period of 120 days from the date of introduction of the ordinance or of city council's direction.
  - b. The city council may extend the 120-day period by ordinance.
  - c. If the proposed ordinance is not adopted within the 120 days, or any extensions thereof, the city shall accept applications and issue plan or plat approval regardless of the status of such proposed ordinance.
- E. **Preliminary Subdivision Plats.** In addition to complying with the core review procedures for major development applications in subsection 15.02.050.B, preliminary subdivision plats shall also comply with the following additional criteria:
  - 1. The subdivision will not limit the ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed;
  - 2. The subdivision will not create lots that are undevelopable or burdened with costs that would preclude development from occurring on other property; and
  - 3. The proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity and adequate public facility standards.
- F. **Rezoning (Amendments to the Official Zoning Map) and Concept Plan Amendments.**
  - 1. **Rezoning Initiation.** Applications for rezoning may be initiated by:
    - a. The city council; or
    - b. One or more of the owners, holders of options to purchase, or lessees of the applicable property.
  - 2. **Concept Plan.** A concept plan is required for a rezoning and amendments to existing rezoning concept plans. The concept plan shall be referenced in the rezoning or concept plan amendment ordinance. A concept plan shall comply with the approval criteria in section 15.02.055.
    - a. **Contents of Concept Plan.** Submittal requirements for a concept plan shall be included in the administrative manual.
    - b. **Exceptions.** A concept plan is not required for a rezoning initiated by the city or the following types of rezoning requests that are intended to correct technical mistakes in a specific zoning application:
      - i. When a lot of record is classified as falling into two or more different zoning districts as of the effective date of this development code, an application to rezone a portion or portions of that parcel so that the zoning district classification is the same for the entire parcel.

- ii. Rezoning to correct the city's clerical error or mistake in classifying a parcel within a specific zoning district.
- iii. Rezoning to allow for minor zoning district boundary adjustments to make a zoning designation consistent with approved platted subdivisions.

3. **Development Applications Pending Consideration of a Rezoning Ordinance.**

- a. When a proposed ordinance that involves a change in zoning from a less restricted zoning district to a more restricted zoning district, or that changes permitted uses in any existing zone district is introduced to city council, or when the city council directs staff or the P/Z to draft or consider such an ordinance, no development applications that would result in nonconforming uses or structures if the proposed ordinance is approved will be accepted by the city for a period of 120 days from the date of introduction of the ordinance or city council direction.
- b. The city council may extend the 120-day period by resolution.
- c. If the proposed ordinance is not adopted within the 120 days, or any extensions thereof, the city shall accept applications and issue plan or plat approval regardless of the status of such proposed ordinance.

4. **Review Procedure.** All applications shall follow the core review procedures for major development applications, stated in subsection 15.02.050.B above, except that legislative rezonings, as described in subsection 15.02.030.A.2, are exempt from steps 2 through 5 of the core review procedure for major development applications provided in subsection 15.02.050.B (step 2: neighborhood meetings; step 3: submission of application/completeness determination; step 4: DRC review and report; step 5: submission of revised application).

5. **Additional Review Criteria.** Rezonings shall also meet at least one of the following justifications:

- a. The rezoning is consistent with events, trends, or facts occurring after adoption of the original zoning that have changed, or are changing, the physical, social, or economic character or condition of the area or neighborhood;
- b. The rezoning corrects an error of a technical nature; for example, in order to achieve zoning district conformance with existing lot lines; or
- c. The rezoning presents the city with a unique opportunity or an appropriate site, at an appropriate location, for the particular type of land use or development proposed and will help the city achieve a balance of land use, tax base, or housing types consistent with the city's overall planning and economic development goals.

6. **Conditions for Rezoning.** The city council may impose reasonable conditions on the rezoning, including, but not limited to:

- a. Reduction in the number and type of permitted uses.
- b. Reduction or other limits on permitted density or intensity of development.
- c. Required review at the end of a specified period of time to determine if the construction of the allowed uses has commenced, and if not, then whether the rezoning should remain in place.
- d. Consistency with any concept plans, architectural plans, landscape plans and site plans submitted by the applicant as part of the rezoning application.

G. **Planned Unit Development Overall Development Plan.**

1. **General—Establishment of PUD Zoning Districts.** A PUD zoning district may be established through one of the following procedures:

- a. Initial zoning when petitioning for annexation; or

- b. A rezoning to a PUD zoning district.

2. **Applicability.**

- a. Approval of an overall development plan (ODP) is required prior to any development in a PUD zone district.
  - b. An ODP shall be submitted concurrently with requests for PUD zoning when petitioning for annexation or for rezoning to a PUD zoning district.
3. **Concurrent Review of Subdivision.** The applicant shall consolidate an application for a PUD overall development plan with an application for preliminary subdivision plat approval, unless a preliminary plat is not required.
4. **Review Criteria for PUD Zoning District.** All requests for the establishment of a PUD zoning district shall also comply with the additional review criteria for rezoning in subsection F.5, above.
5. **Additional Review Criteria for Overall Development Plan.** Overall development plans associated with applications for rezoning to PUD shall also meet the following criteria:
- a. The PUD complies with the district purpose and development/design standards stated in section 15.03.060, "Planned unit development (PUD) district";
  - b. The PUD will not limit the ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is developed; and
  - c. The proposed phasing plan for development of the PUD is rational in terms of available infrastructure capacity and adequate public facility standards.
6. **Lapse of ODP Approval.** No development may occur on a lapsed ODP plan pursuant to subsection 15.02.040.H.3 until a new ODP plan application is submitted and approved.

H. **Vacations.**

1. **Review Procedure.** All applications for vacation of easements or rights-of-way shall follow the core review procedures for major development applications, stated in subsection 15.02.050.B above, except for the following modifications:
- a. **Step 6: P/Z Action or Recommendation.** The director may waive P/Z review if there are no unresolved issues regarding the vacation and the proposal has no material adverse impact on adjacent property owners. The project planner shall schedule the application for city council consideration.
2. **Additional Review Criteria.** Vacations shall also comply with the following additional review criteria:
- a. The right-of-way or easement will not be used in the short- or long-term, or the city receives conveyance or dedication of substitute easements or rights-of-way appropriate to satisfy the continuing municipal need;
  - b. The vacation does not create an irregular right-of-way or easement configuration which could create difficulty in the provision of services or installation of public improvements;
  - c. The public benefits and utility of the vacation request outweigh any adverse impacts of the vacation; and
  - d. The applicant will relocate, if necessary, the public facilities located within the right-of-way or easement.
3. **Standards for Compensation.** The decision-making body shall apply the following factors to determine compensation the applicant shall pay to the city for the vacation, which payment shall be a condition of the vacation:

- a. If the city purchased the easement or right-of-way, the value paid by the city plus a reasonable inflation factor related to real estate or interest rates shall be required as consideration;
- b. If the city must purchase additional rights-of-way or easements to satisfy the continuing municipal need, all costs incurred in acquiring/developing alternate easements or rights-of-way shall be required as consideration;
- c. The willingness of the applicant to re-convey such easements/rights-of-way to the public, if such need should occur;
- d. If the city incurred substantial costs in constructing/maintaining the easement or right-of-way, reimbursement for such costs may be required; and
- e. Whether the party requesting vacation dedicated the right-of-way or easement without cost to the city.

#### I. Variances.

1. **Purpose and Applicability.** Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provisions of chapters 15.03 (Zoning districts), 15.04 (Use regulations), 15.05 (Development standards), 15.06 (Signs), and 15.07 (Subdivision and improvements standards) of this development code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.
2. **Use Variances Prohibited.** A decision-making body shall not grant a variance to allow a use not permitted, or a use expressly or by implication prohibited under the terms of this development code for the applicable zoning district.
3. **Authority to Determine Variance Requests.**
  - a. **Variances Reviewed by the BOA.** The BOA is the decision-making body only on requests for the following variances, but not if the request is proposed or required in conjunction with another development application to be reviewed by the P/Z or the city council:
    - i. Fences.
    - ii. Setbacks.
    - iii. Signage.
  - b. **Variances Reviewed by the P/Z.** The P/Z shall be the decision-making body on all other requests for variances whether or not a development application is proposed or required in conjunction with the variance request, except for exceptions to city standards under subsection 15.02.080.A, and modifications of setback standards for river/stream corridor, riparian areas, and wetlands under subsection 15.05.020.E.3.b.
  - c. **Variances Reviewed by the City Council.** City council shall be the decision-making body on modifications of setback standards for river/stream corridor, riparian areas, and wetlands under subsection 15.05.020.E.3.b. The standards for granting the variance shall be those listed in that section and the common review criteria in section 15.02.055; the additional review criteria in paragraph I.5 below shall not apply. The P/Z shall provide a recommendation to city council on modifications of setback standards.
4. **Review Procedure.** All applications for variances from the provisions of this development code shall follow the core review procedures for major development applications, stated in subsection 15.02.050.B, except for the following modifications:
  - a. **Variances Determined by the BOA.**
    - i. **Steps 1 and 2:** Step 1 (Pre-application conference) and step 2 (Neighborhood meetings) are not required.

- ii. **Step 3 (Submission of Application/Completeness Determination):** Applicants shall submit variance applications to the chief building official. The chief building official shall review the application for completeness according to subsection 15.02.050.B.3.
- iii. **Steps 4 and 5 (DRC Review and Report and Submission of Revised Application):** The chief building official may refer the variance application to the DRC for review if the chief building official determines that the variance request may have a substantial impact on adjacent properties or land uses, or on public facilities. If necessary after the DRC review, the chief building official may require revised drawings prior to scheduling the application for the BOA review.
- iv. **Step 6 (BOA review):** The variance application shall be scheduled for the next available BOA meeting for consideration.
- b. **Variances Determined by the P/Z with other Development Applications—Step 6 (P/Z Action or Recommendation).**
  - i. The notice for the public hearing shall reference all requests for variances.
  - ii. The P/Z shall make determinations relating to both the development application and the variance.
  - iii. Approval of the development application is conditional upon compliance with the terms of any variance granted by the P/Z.
  - iv. The approval period of any variance shall be the same as the approval period of the development application.
- c. **Variance Determined by the City Council - Step 6 (P/Z Action or Recommendation).**
  - i. The notice for the public hearing shall reference all requests for variances.
  - ii. The P/Z shall make determinations relating to both the development application and the variance recommendation.
  - iii. Approval of the development application is conditional upon compliance with the terms of any variance granted by the council.
  - iv. The approval period of any variance shall be the same as the approval period of the development application.
- 5. **Additional Review Criteria for Variances.** Except for standards that have specific modification standards in other areas of the code, the decision-making body may only grant a variance from the terms of this development code if the application also demonstrates compliance with the following additional criteria:
  - a. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.
    - i. Special circumstances include, but are not limited to, exceptional limitations to the dimensions, shape or topography of the property.
    - ii. The following factors shall be considered in determining practical difficulty:
      - (A) Whether the property and development can have any beneficial use without the variance;
      - (B) The degree to which the variance deviates from the otherwise applicable standard;
      - (C) Whether the applicant purchased the property with knowledge of the standard;
      - (D) Whether the standard can be addressed through some means other than a variance; and

- (E) Whether the purpose and intent behind the regulation would be maintained by granting the variance.
  - b. A variance shall not nullify or impair the purpose and intent of the code or the comprehensive plan.
  - c. A variance shall not adversely impact surrounding properties, neighborhoods, or the natural environment.
  - d. A variance shall not create a building or fire code violation or other safety hazard.
  - e. A variance shall not be granted for a self-imposed hardship.
  - f. A variance shall allow only the least deviation from the standard that will afford relief.
6. **Conditions to Approval Authorized.** As with other development applications, in granting a variance, the decision-making body may attach conditions to the approval that otherwise satisfy the purpose and intent of the varied standard.
7. **Effect of Approval/Lapse.**
- a. **Variances Approved by the BOA.** The variance approval shall automatically lapse and be of no further force and effect if the applicant fails to apply for a building permit within six months of the date of approval, or other period provided by the BOA.
  - b. **Variances Approved by the P/Z or the City Council.** The approval period of a variance granted by the P/Z shall be the same as the BOA in subsection 1.7.a. above, unless it is approved as part of a development application, in which case the approval period shall be the same as that of the development application.
  - c. **Approved Variances and Substantial Redevelopment of the Property.** The variance shall automatically lapse if there is an application for a substantial redevelopment of the property, as determined by the director. The new application may include a request for approval of the variance and shall be subject to the review criteria for a new variance.