

## ARTICLE V – Administration and Procedures

- **Yellow highlight** = sections from the existing Title 17
- *Light green italicized text* = drafting notes
- **Blue highlight** = to be reviewed by the planning commission- Is this needed? Is this the correct trigger?
- **Green highlight** = need to finalize numbering once the entire Code is compiled.
- Discretionary decision-making rests with the Planning Commission and the Board of Trustees. Generally, the Planning Commission makes recommendation to the Board of Trustees. The exceptions are as follows:
  - Planning Commission only- Site Development Plan over 10,000. sq. ft; requires public hearing
  - Planning Commission only- sign review for deviations from requirements

**Dawn has reviewed this. There is one substantive question for the Planning Commission regarding the review of site development plans- SEE PAGE 30-31.**

**Town attorney needs to review existing Annexation ordinance- page 23- this is an existing section- see notes.**

### *Drafting Notes:*

*The purpose of this Article is to have all administration and procedures in one place. This provides clarity and accessibility to applicants, staff, elected officials, and the public.*

*This avoids having to repeat common procedures, such as public notice and public hearing procedures, throughout Title 17.*

*This Article includes the following existing sections with some edits.*

### ***New sections that were missing:***

*Table of submittal requirements per application type*

*Table of Approval Requested*

*Variance procedures*

*Conditional review uses*

### ***Sections that will stay in their current location***

*Title 17.14. Provisions for Amendments*

*17.12.050. Application submittal and completeness review for all applications.*

*17.12.055. Application fees, cost reimbursement agreement, and application forms.*

*17.12.050. Required referrals.*

*17.12.055. Certificate of zoning compliance.*

*17.12.080. Certificate of occupancy.*

*17.12.090. Temporary certificate of occupancy.*

*17.68.110 Submittal requirements for the Stormwater Quality Control Ordinance (aka Hillside Overlay, but applies to all areas in the town)- note, based on discussions with John Chavez, this section of the code needs to be updated, so we will not move the submittal requirements to this Article.*

*17.72 Planned Development- this is a stand-alone section.*

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### **Sec. 17.5.100. – General Review Process.**

- (a) All zoning applications shall conform to this Title.
- (b) The following zoning applications are reviewed and approved by the Town Administrator and the Development Review Team if requested by the Town Administrator.
  - (1) Plot Plan per 17.12.070
  - (2) Floodplain Development permit pursuant to Section 17.3.XX
  - (3) Sign Permit pursuant to section 17.75.040
  - (4) Site Development Plan less than 10,000 sq. ft. 17.12.075
  - (5) Site Development Plan 10,000 sq. ft. or greater
  - (6) Change of use 17.14.030
- (c) The following zoning applications are reviewed by the Planning Commission without a public hearing.
  - (1) Approval of deviations from the sign code.
  - (2) Site Development Plan over 10,000 sq. ft.
- (d) The following zoning applications require at least one public hearing:
  - (1) Amendments to the Community Master Plan
  - (2) Amendment to the Official Map
  - (3) Amendments to the Text of Title 17. Zoning
  - (4) Site Development Plan 10,000 sq. ft. or greater of floor area
  - (5) Appeals made by any administrative official of the Town charged with the enforcement of this Code
  - (6) Conditional Review Use
  - (7) Cluster Development

(8) Planned Development (PD): Planned Development Plan (FDP), and Final Development Plan (FDP)

(9) Revocation of Approved Development Applications and Permits

(10) Site Specific Development / Vested Rights

(11) Variances

(e) Table of Development Review Process for items requiring a public hearing.

| Table 17.5.1 Required Decision-Making Process for Land Use Applications. |                           |                         |                     |                     |                   |
|--------------------------------------------------------------------------|---------------------------|-------------------------|---------------------|---------------------|-------------------|
| Process                                                                  | Preapplication Conference | Administrative approval | Board of Adjustment | Planning Commission | Board of Trustees |
| Rezoning<br><i>(includes amendment to community master plan)</i>         | X                         |                         |                     | X                   | X                 |
| Annexation                                                               | X                         |                         |                     | X                   | X                 |
| Change of Use                                                            | Optional                  | X                       |                     |                     |                   |
| Variances                                                                |                           |                         | X                   |                     |                   |
| Appeals of administrative official decision                              |                           |                         | X                   |                     |                   |
| Conditional Review Use                                                   | optional                  |                         |                     | X                   | X                 |
| Site Development Plan (< 10,000 sq. ft.)                                 | optional                  | X                       |                     |                     |                   |

| <b>Table 17.5.1 Required Decision-Making Process for Land Use Applications.</b> |                                  |                                |                            |                            |                          |
|---------------------------------------------------------------------------------|----------------------------------|--------------------------------|----------------------------|----------------------------|--------------------------|
| <b>Process</b>                                                                  | <b>Preapplication Conference</b> | <b>Administrative approval</b> | <b>Board of Adjustment</b> | <b>Planning Commission</b> | <b>Board of Trustees</b> |
| Site Development Plan (10,000 sq. ft. or more)                                  | optional                         |                                |                            | X                          | X                        |
| Planned Development Plan (PDP) and Final Development Plan (FDP)                 | X                                | X                              |                            | X                          | X                        |
| Plot Plan                                                                       |                                  | X                              |                            |                            |                          |
| Cluster Development Plan                                                        | X                                |                                |                            | X                          | X                        |

### **Sec. 17.5.110 Role of the Planning Commission**

#### **(a) Applications Subject to Planning Commission Decision**

- (1) The Planning Commission shall hold a public hearing in accordance with Section 17.5.230.
- (2) The Planning Commission shall consider the application, applicable review criteria, support material, staff reports, and any evidence and/or comments from the public hearing.
- (3) The Planning Commission shall approve, approve with conditions, deny the application, or continue the hearing to a specified date and time.
- (4) Unless specifically provided elsewhere, all decisions shall require an affirmative vote. A tie vote shall be considered a denial of any request.
- (5) Within ten (10) working days after a decision is made, a copy of the decision shall be sent to the applicant and filed with the Town Administrator or designee, where it shall be available for public inspection during regular office hours.

**(b) Applications Subject to Planning Commission Recommendation**

- (1) The Planning Commission shall hold a public hearing to review the application based on the applicable review criteria. The Planning Commission shall then make a recommendation to the Town Board to approve, approve with conditions, deny the application or continue the hearing to a specified date and time.
- (2) Unless specifically provided elsewhere, all recommendations shall require an affirmative vote. A tie vote shall be considered a recommendation of denial of any request.
- (3) Following Planning Commission review, the Town Administrator or designee shall forward the completed request and any related materials, including the Planning Commission recommendation (if applicable), to the Board of Trustees for final action.

**Section 17.5.120 Role of the Board of Trustees****(a) Applications Subject to Board of Trustees Decision**

- (1) The Board of Trustees shall hold a public hearing in accordance with 17.5.230.
- (2) The Board of Trustees shall consider the application, applicable review criteria, support material, Planning Commission recommendation (if applicable), staff reports, and any evidence and/or comments from the public hearing.
- (3) The Board of Trustees shall approve, approve with conditions or deny the application or continue the hearing to a specified date and time. The Board of Trustees may also remand the application back to the Town Administrator, DRT, or the Planning Commission, whichever is applicable, for further review.
- (4) Unless specifically provided elsewhere, all decisions shall require an affirmative vote. A tie vote shall be considered a denial of any request.
- (5) Within ten (10) days after a decision is made, a copy of the decision shall be sent to the applicant and filed with the Town Administrator or designee, where it shall be available for public inspection during regular office hours.

**Section 17.5.130 Role of the Board of Adjustment**

- (a) Board of Adjustment. Pursuant to C.R.S. § 31.23.307, a Board of Adjustment for the Town is created as outlined in Chapter 2.16 Board of Adjustment in the Palmer Lake Municipal Code.
- (b) The BOA shall have the power to interpret this Title, including any uncertainty as to district boundary locations or the meaning of wording, so long as this interpretation is not contrary to the purpose and intent of this Title.
- (c) Pursuant to Chapter 2, Article XI of the Municipal Code, the Board of Adjustment shall not consider or grant variances to uses in the zoning district.
- (d) Applications Subject to Board of Adjustment Decision
  - (1) The Board of Adjustment shall hold a public hearing in accordance with 17.5.230.
  - (2) The Board of Adjustment shall consider the application, applicable review criteria, support material, staff reports, and any evidence and/or comments from the public hearing.

- (3) The Board of Adjustment shall approve, approve with conditions, deny the application, or continue the hearing to a specified date and time.
- (4) Unless specifically provided elsewhere, all decisions shall require an affirmative vote. A tie vote shall be considered a denial of any request.
- (5) Within ten (10) days after a decision is made, a copy of the decision shall be sent to the applicant and filed with the Town Administrator or designee, where it shall be available for public inspection during regular office hours.

### **Sec. 17.5.200. Preapplication Conference**

- (a) A preapplication is a nonbinding meeting held when an application submittal is imminent, that benefits the applicant by giving them the opportunity to discuss submittal requirements with the Town Staff. The meeting will include the Town Administrator and, if necessary, the Development Review Team (Town Planner, Town Engineer, Stormwater Quality consultant, Town Attorney), Public Works Department, the Fire District, and any other technical staff or consultants as needed.
- (b) Pre-application conferences are optional for those applications noted in Table 17.5.2.
- (c) The preapplication conference also serves to facilitate discussion about the technical elements of the development, including but not limited to:
  - (1) Characteristics of the site and surrounding area, such as size, location, zoning, accessibility of the site, natural and manmade features, natural hazards, and surrounding development and land use.
  - (2) The nature of the development proposed, including:
    - a. proposed uses,
    - b. densities,
    - c. placement of proposed building, structures and improvements,
    - d. location, type, and method of maintenance of the common open space and public use areas such as trails and paths,
    - e. internal circulation system.
    - f. total impervious coverage of paved areas and structures; and
    - g. proposed water, wastewater, and other utility infrastructure.
  - (3) Conformance with adopted Town policies, including but not limited to the Community Master Plan.

### **Sec. 17.5.210. Submittal Requirements and Review**

- (a) Each applicant shall submit a complete land use application packet and all required submittal documents. A digital copy of all application documents in a PDF format, along with GIS files and AutoCAD drawings as applicable, shall be submitted in addition to the required paper documents with original signatures. The application packet shall consist of the following materials, along with specific materials noted for each type of application:
  - (1) Completed Land Use Application Form
  - (2) Completed Checklist
  - (3) Completed Cost Reimbursement Agreement and payment of applicable fees

- (4) Mineral Rights Affidavit (see below)
  - (5) Written statement or narrative describing how the application is consistent with adopted Town policies and plans, including but not limited to the Community Master Plan, and the Town's Public Works manual and El Paso County Engineering Criteria Manual.
  - (6) A plat, map, or graphic of the site or proposed use depicting topography, existing and planned building locations, accessory structures, parking, traffic circulation, usable open space, landscaping, utilities, drainage features, and any other information needed to evaluate the proposal.
  - (7) Current proof of ownership in the form of title insurance issued within thirty (30) days of submission of the application, unless waived by the Town Administrator.
- (b) Staff shall review the application packet to determine if the application is complete or if there are deficiencies in the application submittal. If the application is complete, the Town Administrator or designee shall notify the applicant within a reasonable period of time that the application will be sent out for referral and that town staff will conduct a technical review.
  - (c) No land use application shall be scheduled for further review until the application is deemed complete and the applicant receives a certificate of completeness.

### Section 17.5.220 Submittal requirements by application type

- (a) Submittal items. All land use applications shall contain the information as outlined for each type of land use application.
- (b) Drawing format and content. Unless waived by the town administrator or designee, all plans and drawings shall contain the drawing format and content noted for each land use application type

| Table 17.1                                                               |           |                                        |                                              |                     |                |                        |          |
|--------------------------------------------------------------------------|-----------|----------------------------------------|----------------------------------------------|---------------------|----------------|------------------------|----------|
| Drawing Format and Content<br><br>M – may be required                    | Plot Plan | Site Development Plan < 15,000 sq. ft. | Site Development Plan 15,000 sq. ft. or more | Cluster Development | PD PDP and FDP | Conditional Review Use | Variance |
| Paper copy of drawing(s)                                                 | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Digital copy of drawing(s)                                               | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| 24" x 36" sheet size, unless other size is approved or indicated by text | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| All signatures in black drawing ink                                      |           |                                        | X                                            | X                   | X              | X                      |          |
| Project title                                                            | X         | X                                      | X                                            | X                   | X              | X                      | M        |



| <b>Table 17.1</b>                                                       |           |                                        |                                              |                     |                |                        |          |
|-------------------------------------------------------------------------|-----------|----------------------------------------|----------------------------------------------|---------------------|----------------|------------------------|----------|
| <b>Drawing Format and Content</b><br><br>M – may be required            | Plot Plan | Site Development Plan < 15,000 sq. ft. | Site Development Plan 15,000 sq. ft. or more | Cluster Development | PD PDP and FDP | Conditional Review Use | Variance |
| North point, written & graphic scales                                   | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Drawing date                                                            | X         | X                                      | X                                            | X                   |                | X                      | M        |
| Name, address, phone, and email of:                                     |           |                                        |                                              |                     |                |                        |          |
| Owner(s) of the property                                                | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Applicant if not the owner                                              | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Person/firm preparing the drawing(s)                                    | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Designer/planner if different than person/firm preparing the drawing(s) |           | X                                      | X                                            | X                   | X              |                        |          |
| Engineer                                                                |           | X                                      | X                                            |                     |                |                        |          |
| Colorado registered surveyor                                            |           |                                        | X                                            | X                   | X              | X                      |          |
| Table of project information                                            | X         | X                                      | X                                            |                     | X              | X                      |          |
| Total acreage                                                           | X         | X                                      | X                                            | X                   | X              |                        | M        |
| Acreage by the different land uses                                      | X         | X                                      | X                                            | X                   | X              |                        |          |
| Total number of lots                                                    |           | X                                      | X                                            | X                   | X              |                        |          |
| Number of each type of dwelling proposed                                |           | X                                      | X                                            | X                   | X              |                        |          |

| <b>Table 17.1</b>                                            |           |                                        |                                              |                     |                |                        |          |
|--------------------------------------------------------------|-----------|----------------------------------------|----------------------------------------------|---------------------|----------------|------------------------|----------|
| <b>Drawing Format and Content</b><br><br>M – may be required | Plot Plan | Site Development Plan < 15,000 sq. ft. | Site Development Plan 15,000 sq. ft. or more | Cluster Development | PD PDP and FDP | Conditional Review Use | Variance |
| Parking - required, provided, ratio                          |           | X                                      | X                                            | X                   | X              |                        | M        |
| Building height, floor area, setbacks                        |           | X                                      | X                                            | X                   | X              |                        | M        |
| Vicinity map                                                 | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Map key if entire property is not on one sheet               | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Legend of symbols used                                       | X         | X                                      | X                                            | X                   | X              | X                      | M        |
| Legal description                                            |           | X                                      | X                                            | X                   | X              | X                      | M        |
| Basis for establishing bearings                              |           |                                        | X                                            | X                   | X              | X                      |          |
| <b>Certifications:</b>                                       |           |                                        |                                              |                     |                |                        |          |
| Dedication of ROW, easements, and public sites               |           |                                        | X                                            | X                   | X              |                        |          |
| Owner(s)                                                     |           |                                        | X                                            | X                   | X              | X                      | M        |
| Mortgagee(s) if any                                          |           |                                        | X                                            | X                   | X              | X                      |          |
| Surveyor(s), including signed seal                           |           |                                        | X                                            | X                   | X              | X                      | M        |
| Planning Commission                                          |           | X                                      | X                                            | X                   | X              | X                      |          |
| Mayor, with attest by Town Administrator or designee         |           | X                                      | X                                            | X                   | X              | X                      |          |
| County Clerk and Recorder                                    |           |                                        | X                                            | X                   | X              | X                      |          |
| Notes                                                        | X         | X                                      | X                                            | X                   | X              | X                      | M        |

| <b>Table 17.1</b>                                                    |           |                                        |                                              |                     |                |                        |          |
|----------------------------------------------------------------------|-----------|----------------------------------------|----------------------------------------------|---------------------|----------------|------------------------|----------|
| <b>Drawing Format and Content</b><br><br>M – may be required         | Plot Plan | Site Development Plan < 15,000 sq. ft. | Site Development Plan 15,000 sq. ft. or more | Cluster Development | PD PDP and FDP | Conditional Review Use | Variance |
| Monuments - location and description                                 |           |                                        | X                                            | X                   | X              | X                      | M        |
| Locate, show and label:                                              |           |                                        |                                              |                     |                |                        |          |
| Adjoining subdivisions or owners                                     |           | X                                      | X                                            | X                   | X              | X                      |          |
| Proposed land uses                                                   | X         | X                                      | X                                            | X                   | X              |                        |          |
| Areas to remain open, natural, or parks/trails                       |           | X                                      | X                                            | X                   | X              |                        |          |
| Land dedication (see Subdivision requirements)                       | X         | X                                      | X                                            | X                   | X              |                        |          |
| Lots and blocks                                                      |           | M                                      | X                                            | X                   | X              | X                      |          |
| Approximate dimensions & areas                                       | X         | X                                      | X                                            | X                   | X              |                        |          |
| Proposed roadways/access                                             | X         | X                                      | X                                            | X                   | X              |                        |          |
| Right-of-way, existing and proposed, on and adjacent to the property |           | X                                      | X                                            | X                   | X              | X                      |          |
| Bearings, distances, curve data for lots, blocks, ROW, and easements |           | X                                      | X                                            | X                   | X              | X                      |          |
| Excepted parcels noted as not included                               |           |                                        | X                                            | X                   | X              | X                      |          |
| Street names, on & adjacent to property                              | X         | X                                      | X                                            | X                   | X              | X                      | M        |

| <b>Table 17.1</b>                                                                     |           |                                        |                                              |                     |                |                        |          |
|---------------------------------------------------------------------------------------|-----------|----------------------------------------|----------------------------------------------|---------------------|----------------|------------------------|----------|
| <b>Drawing Format and Content</b><br><br>M – may be required                          | Plot Plan | Site Development Plan < 15,000 sq. ft. | Site Development Plan 15,000 sq. ft. or more | Cluster Development | PD PDP and FDP | Conditional Review Use | Variance |
| Curb cuts - existing and proposed, on or adjacent to property                         |           | X                                      | X                                            | X                   | X              |                        |          |
| Easements, existing and proposed, on & adjacent to property                           | M         | X                                      | X                                            | X                   | X              | X                      |          |
| Zoning, on & adjacent to property                                                     | X         | X                                      | X                                            | X                   | X              | X                      |          |
| Phasing of project, if applicable                                                     | X         | X                                      | X                                            | X                   | X              |                        |          |
| Water features, bodies, and courses                                                   | X         | X                                      | X                                            | X                   | X              |                        |          |
| Existing trees & geologic features                                                    | X         | X                                      | X                                            | X                   | X              |                        |          |
| Contours - existing and proposed at 2-foot intervals                                  | X         | X                                      | X                                            | X                   | X              |                        |          |
| Extend contours sufficient distance onto adjacent property to establish relationships |           | X                                      | X                                            | X                   | X              |                        | M        |
| Areas of 20% slope or steeper                                                         | X         | X                                      | X                                            | X                   | X              |                        | M        |
| Floodplain area and boundary                                                          | X         | X                                      | X                                            | X                   | X              |                        | M        |
| Source of information                                                                 | X         | X                                      | X                                            | X                   | X              |                        | M        |

| <b>Table 17.1</b>                                                                                                                                                                                                                                                                              |           |                                        |                                              |                     |                |                        |          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------------------------------------|----------------------------------------------|---------------------|----------------|------------------------|----------|
| <b>Drawing Format and Content</b><br><br>M – may be required                                                                                                                                                                                                                                   | Plot Plan | Site Development Plan < 15,000 sq. ft. | Site Development Plan 15,000 sq. ft. or more | Cluster Development | PD PDP and FDP | Conditional Review Use | Variance |
| Location of existing buildings, structures, and improvements                                                                                                                                                                                                                                   | X         | X                                      | X                                            | X                   | X              |                        | M        |
| Location of proposed buildings, structures, and improvements                                                                                                                                                                                                                                   | X         | X                                      | X                                            | X                   | X              |                        | M        |
| Structures & improvements to remain                                                                                                                                                                                                                                                            | X         | X                                      | X                                            | X                   | X              |                        | M        |
| Drainage - coceptual plan                                                                                                                                                                                                                                                                      | X         | X                                      | X                                            | X                   | X              |                        |          |
| Bridges, culverts, drainage facilities                                                                                                                                                                                                                                                         |           | X                                      | X                                            | X                   | X              |                        |          |
| Water - statement of sufficient supply                                                                                                                                                                                                                                                         | X         | X                                      | X                                            | X                   | X              |                        |          |
| Utility lines, equipment & facilities                                                                                                                                                                                                                                                          | X         | X                                      | X                                            | X                   | X              |                        | M        |
| Water & sewer lines, hydrants                                                                                                                                                                                                                                                                  |           | X                                      | X                                            | X                   | X              |                        | M        |
| Location and acreage of parks, playgrounds, trails, schools, common areas, or other public uses (also see Subdivision requirements)                                                                                                                                                            |           | X                                      | X                                            | X                   | X              |                        |          |
| ** Change of Use: A plot plan may be submitted for a change of use if there are no changes to the exterior of the use (i.e., parking, lighting, building coverage, addition of an accessory structure). If there are changes to the exterior, then a site development plan shall be submitted. |           |                                        |                                              |                     |                |                        |          |

- (c) the application will be sent out for referral, and the Town personnel will conduct a technical review. No land use application shall be scheduled for further review until the application is deemed complete by staff and the applicant receives a Certificate of Completeness as required by 17.12.50.

#### **Sec. 17.5.225. Required Referrals. (moved from 17.12.060- existing)**

- (a) Upon a determination that the application is complete, the town administrator or designee shall refer the application to all referral entities for their comments, unless the town administrator or designee finds that the application is not related to the issues addressed by a particular entity listed. The list of referral agencies is available from the town administrator or designee and shall include all jurisdictions that have an intergovernmental agreement with the town, all town departments, the development review team, all outside utilities, service providers, and agencies. All jurisdictions within the town's established 3-Mile planning area including the El Paso County Planning Department and Town of Monument shall receive referrals. The town administrator or designee may provide the application to other entities if the town administrator or designee determines in his or her discretion that such other entity may have comments relevant to the specific application.
- (b) Referrals required by state law.
  - (1) Major activity notice to the state geologist and the board of county commissioners pursuant to C.R.S. § 31-23-225, if the proposed subdivision or commercial or industrial development is proposed to cover five or more acres of land.
  - (2) The Colorado Water Conservation Board if the proposed development contains at least 50 lots or five acres (whichever is less) and base flood elevation data is required.
  - (3) Mineral estate affidavit documenting that the applicant has contacted all mineral rights owners and lessees dated no more than 30 days pursuant to C.R.S. § 24-65.5-103, as amended. Such affidavit shall include the names and addresses of all mineral estate owners and lessees.
  - (4) The Colorado Department of Transportation if the application abuts a state highway, such as Highway 105 or Interstate 25.

#### **Sec. 17.5.230 Public Hearings**

- (a) Applicability. This Section shall apply to all land use applications requiring a public hearing before the Planning Commission, the Board of Trustees, or the Board of Adjustment.
- (b) Procedure. The procedure for public hearings shall be as follows:
  - (1) Pre-application conference pursuant to Section 17.5.200.
  - (2) Completeness Review and Certificate of Completeness pursuant to 17.12.050
  - (3) Referral pursuant to 17.5.225
  - (4) Notice of Hearing pursuant to 17.5.240
  - (5) Staff Review. Within no more than thirty (30) days of receipt of an application certified as complete, Town staff shall review the application for compliance with this

Title and applicable law and send a summary of the Town's comments and any referral agency comments to the applicant.

- (6) Applicant Response. Within **no more than fifteen (15) days of receipt** of the technical comments, the applicant shall respond, in writing, to the Town's comments and any referral agency comments. If significant deficiencies remain in the application, such as failure to meet one or more sections of this Title, the application will not be scheduled for a hearing until the deficiencies are corrected and revised documents submitted. If the Town Administrator or designee determines that any deficiencies are minor, the application may be scheduled for a public hearing with conditions of approval.
- (7) Notice. Upon receipt of the applicant's response, the Town Administrator shall set the required public hearings, and shall publish, post, and mail the notice of the public hearings as required by Section 17.5.240.
- (8) Hearing and Decision. Public hearings shall be conducted in accordance with due process procedures. The Planning Commission, Board of Trustees, or Board of Adjustments shall either recommend approval, approve, approve with conditions, deny, or continue the hearing on the application to a date certain.

#### **Sec. 17.5.240 Public Notice Requirements.**

- (a) For all actions of the Town described in this Title requiring public hearings, public notice of the hearing shall conform to the following requirements.
- (b) At least fifteen (15) days in advance of the hearing, notice of the public hearing shall be sent to all owners of property fully or partially within three hundred (300) feet of the boundaries of the subject property, owners of mineral right interests of record, and the referral agencies using the most recent property owner information from the El Paso County Assessor's records. Notice to property owners is conducted by the applicant.
- (c) All notices shall include:
  - (1) A statement of the nature of the matter being considered.
  - (2) The time, date, and place of the public hearing.
  - (3) The agency or office and phone number where further information may be obtained; and
  - (4) The street address and/or a legal description of the subject property.
- (d) Such notice shall be sent via certified mail, return receipt requested. Copies of the certified mailing receipts shall be addressed to the Town prior to the hearing. The Town may assist the applicant with a recent list of property owners based on the El Paso County Assessor's records. Notice of the hearing shall be published by the Town in a newspaper of general circulation at least fifteen (15) days in advance of the hearing. All publication expenses shall be paid by the applicant. Failure to properly notice the hearing shall be grounds for a continuance of the public hearing until such notice is provided.
- (e) Public Notification Sign. The Town Staff shall prepare a public notification sign to be posted on the property no less than fifteen (15) days in advance of the hearing.

**Sec. 17.5.250. Revocation of Permits.**

- (a) The Board of Trustees may revoke any land use development approval after notice and a public hearing.
- (b) Notice of Public Hearing. The public hearing on the revocation of a land use development approval shall be conducted during a regular or special meeting of the Board of Trustees, not less than fifteen (15) days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent, or other person to whom the land use development approval was issued, upon deposit of said notice in the U.S. mail for those not residing in town by certified mail, return receipt requested, and addressed to the last known address of said owner or shall be given via in-person delivery from a Town police officer.
- (c) Findings. Following the public hearing, the Board of Trustees, upon a finding of the following, may revoke any land development permit, building permit, or other authorization:
  - (1) There is a departure from the approved plans, specifications, or conditions of approval.
  - (2) There is a violation of any provision of the Municipal Code, specifically but not limited to Titles 16 and 17.
  - (3) The land use development approval was obtained by false representation; or
  - (4) The land use development approval was issued in error.
- (d) Notice of Revocation. Written notice of revocation shall be served upon the owner, owner's agent, applicant, or other person to whom the land use approval was issued, by certified mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction, or use of the property shall proceed after service of the revocation notice.

**Section 17.5.300 Rezoning Procedures**

- (a) *Applicability.* This section applies to all applications to change the zoning district classification of a lot or parcel to a different zoning district classification, including applications to create or repeal a planned unit development zoning district, or to create, modify, or repeal an overlay zoning district.
- (b) *Initiation of amendments to text or official zoning map.* The board of trustees may from time to time amend, supplement, change, or repeal the regulations and provisions of this chapter. Amendments to the text of this Code may be initiated by the board of trustees, town staff, or planning commission, or by written application of any property owner or resident of the town. Amendments to the zoning district map may be initiated by the board of trustees, town staff, or the planning commission, or by a real property owner in the area to be included in the proposed amendment.
- (c) *General rezoning of the town.* Whenever the zoning district map is to be changed or amended incidental to or as part of a general revision of this Code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in, the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the town hall during regular business hours for 15 days prior to the public hearing on such amendments.
- (d) To initiate a rezoning of private property, the petitioner must be the owner of the affected property or a person with the signed authorization of the owner to present the application.



- (e) If a proposed rezoning is inconsistent with the community master plan (aka comprehensive plan), the community master plan shall be amended prior to approving the rezoning. The request may only be approved if the applicant demonstrates that the rezoning is justified because of changed or changing conditions in the particular area, in the town in general, or that the rezoning is necessary to correct a manifest error in the existing zone classification. The procedures for amending the Community Master Plan are in [Section 17.5.310](#)
- (f) *Rezoning amendment application process.*
- (1) The board of trustees may amend the boundaries of any zone district as shown on the official zoning map.
  - (2) A zoning change of individual property may be initiated by the town, by citizen petition or by application filed by the landowner.
  - (3) Town initiated zoning change. Requests for zoning changes initiated by the board of trustees, planning commission, or town staff will be prepared as a draft ordinance by the town attorney and town staff and shall be reviewed and considered by the planning commission and presented to the board of trustees at a public hearing. In this instance, the town shall be considered to be the applicant.
  - (4) Owner or citizen initiated zoning change of private property. The petitioner must be the owner of the property or a citizen of the town who has submitted the application with a petition signed by owners of all of the land affected by the request. All applicants are advised there is no right to a change of zoning.
  - (5) The planning commission and board of trustees may consider the following evaluation criteria for the analysis of zoning amendment applications:
    - a. The compatibility of the zoning change with the surrounding zone districts and land uses in the vicinity of the site including the characteristics of the existing neighborhood, the applicable dimensional requirements, and the suitability of the site for development in terms of on-site characteristics.
    - b. Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area.
    - c. The proposed use complies with all applicable requirements of this Title ~~Land Development Code~~, including without limitation any applicable standards.
    - d. The land proposed for a zoning change, or adjacent land has changed or is changing that it is in the public interest and consistent with the intent, purpose, and provisions of this chapter and the community master plan (aka comprehensive plan) to encourage different densities or uses.
    - e. That the proposed rezoning is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives, and policies contained within the adopted Town of Palmer Lake plans.
    - f. Any impacts on the surrounding area associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other material adverse impacts have been addressed and/or mitigated to the maximum extent practicable.
    - g. The town or other service providers have the capacity to serve the development enabled by the rezoning with adequate roads, water, sewer, and other public services and facilities.
    - h. The recommendations of referral agencies have been considered and addressed to the maximum extent practicable.
    - i. Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools, and transportation.
    - j. The relationship between the proposal and the adopted community master plan, parks plan, and adopted 3-Mile annexation plan.
    - k. Public benefits arising from the proposal.
  - (6) That the existing zoning classification currently recorded on the official zoning map is in error.

- (7) *Zoning protest.* In case of a protest against a proposed rezoning filed with the Town Administrator or designee at least 24 hours prior to the public hearing and signed by the owners of 20 percent or more either of: (1) the area of the property included in such proposed change; or (2) the area immediately adjacent to the area proposed to be rezoned, extending for a radius of 100 feet therefrom, disregarding intervening public streets and alleys, such amendment shall not become effective except by the favorable vote of two-thirds of the members of the board of trustees.
- (8) *Legislative rezoning.* The board of trustees may, upon request of the planning commission, the town administrator, or on its own motion, initiate a procedure for rezoning a significant area of the town, consisting of six or more individual ownership parcels. This rezoning is a legislative not a quasi-judicial act and may be accomplished by ordinance without notice to individual landowners. The protest procedures of subsection (c) above shall not apply. The procedure for legislative rezoning shall be as follows.
- a. Requests for legislative rezoning initiated by the board of trustees, planning commission or the town administrator will be prepared as a draft ordinance by the town attorney and town staff. In this instance the town shall be considered to be the applicant.
  - b. After conducting its review on the request, the planning commission shall transmit its recommendations to the board of trustees.
  - c. Notice of the public hearing before the board of trustees shall be given by publication of the request. The notice shall be published in a newspaper of general circulation in the town and by posting at the town offices. Separate notice to individual property owners is not required but may be given at the sole discretion of the town. The town choosing not to give such individual notice shall not be a basis for the challenge of the legislative rezoning.
  - d. The board of trustees shall consider the public testimony, the recommendations of the comprehensive plan, and the interests of the town in general when considering a legislative rezoning. The rezoning shall not apply.

(9) Zoning change procedures.

- a. Step 1: Preapplication conference pursuant to Section 17.5.205.
- b. Step 2: Zoning amendment application submittal. The applicant shall submit one copy of the complete zoning amendment application package to the town administrator or designee. In addition to the requirements in 17.5.205, the application shall include a zoning amendment map of the area included in the proposed change, on a sheet twenty-four (24) inches high by thirty-six (36) inches wide, along with a colored electronic 11X17 zoning amendment map with the following information.
  - a. Completed land use application form.
  - b. Legal notice form. The applicant shall prepare the legal notice form and return it to the town with an electronic copy of the legal description in Microsoft Word format.
  - c. North arrow, scale 1" = 100' or 1" = 200', and date of preparation.
  - d. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.
  - e. Legal description of the area to be zoned (entire area and individual zoning districts). In an unsubdivided property, zone boundaries shall be determined by a metes and bounds description.
  - f. Location and boundaries, including dimensions, of the property proposed for the zone change.

- g. The acreage or square footage contained within the property proposed for rezoning.
- h. All existing land uses in the proposed rezoning area.
- i. Zoning and existing land uses on all lands adjacent to the proposed rezoning.
- j. The location and dimensions for all existing public rights-of-way, including streets, and the centerlines of watercourses within and adjacent to the rezoning.
- k. The names of all adjoining subdivisions with lines of abutting lots and departing property lines of adjoining properties not subdivided.
- l. Certification blocks for the Surveyor, Planning Commission, Board of Trustees, and County Clerk and Recorder. (See appendices to this Title for examples of certification blocks.)
- m. An Auto CAD™ drawing file or GIS file of the zoning amendment map on a flash drive or by other acceptable electronic transfer.
- n. Application fee and fee agreement. A non-refundable fee is collected to cover the cost of review by the development review team (DRT) and any other expert whom the town may wish to review the application, notice, and publication expenses. The town administrator or designee shall provide the applicant with a copy of the most current fee schedule and fee agreement form.
- o. Mineral estate rights affidavit. The mineral rights affidavit must be current and must be dated no more than 30 days before the date of the rezoning application submittal.
- p. Current proof of ownership in the form of title insurance issued or attorney title opinion within 30 days of submission of the application.
- c. Step 3: Zoning amendment application certification of completion. Within 15 days of submittal, the town administrator or designee shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the zoning amendment technical criteria form) to the town administrator or designee. The original application and all documents requiring a signature shall be signed in ink.
- d. Step 4: Final staff review and report to planning commission. Staff shall complete a final review of the resubmitted materials and prepare a report to the planning commission explaining how the application is or is not consistent with the criteria for amendments to the official zoning map or criteria for amendments to the text of the Zoning Code.
- e. Step 5: Set zoning amendment public hearing and complete public notification process.
  - 1. Map amendments (rezoning). Town administrator or designee shall send notice of public hearing to the applicant, all property owners of record within 300 feet of the property in question, and all mineral interest owners of record no less than 15 days before the planning commission public hearing. The town administrator or designee shall publish notice of hearing in a newspaper of general circulation

and post a sign on the property in a visible location. The hearing may be held no less than 15 days from the date of property posting and newspaper publication. If the zoning amendment request is accompanying another application that is scheduled for public hearings before the planning commission and board of trustees, one combined public hearing may be held on both applications.

2. Text amendments. The town administrator or designee shall publish notice of hearing in a newspaper of general circulation at least 15 days prior to the scheduled public hearing before the planning commission. No mailed notice or property posting is required.
- f. Step 6: Planning commission public meeting and action on the zoning amendment. The planning commission shall hold a public hearing to review the zoning amendment based on the criteria for amendments to the official zoning map or the criteria for text amendments to the Zoning Code. The planning commission shall then make a recommendation to the board of trustees to approve, conditionally approve, or deny the zoning amendment application.
  - g. Step 7: Finalize zoning amendment based on planning commission comments. If necessary, the applicant shall revise the zoning amendment application based on the planning commission's comments and submit it to the town administrator or designee.
  - h. Step 8: Complete public notification process notify parties of interest. Not less than 15 days before the date scheduled for the board of trustees public hearing, the town administrator or designee shall notify surrounding property owners within 300 feet, mineral interest and any owners of record, and other interested parties. The notice shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. Such notice shall not be required for text amendments.
  - i. i. Step 9: Set board of trustees public hearing.
    1. Map amendments (rezoning). In addition to mailed notice (Step 8), the board of trustees shall schedule a public hearing for the purpose of taking action on the zoning amendment. The town administrator or designee shall publish notice in a newspaper of general circulation and post a sign in a visible location. The hearing may be held no less than 15 days from the date of newspaper publication.
    2. Text amendments. The town administrator or designee shall publish notice in a newspaper of general circulation at least 15 days before the date scheduled for the board of trustees public hearing. No mailed notice or property posting is required.
  - j. Step 10: Board of trustees public hearing and action on the zoning change amendment. The board of trustees shall, after receiving the report and recommendations from the planning commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the board of trustees shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the criteria listed above and approve, approve with conditions, or deny the application, in whole or in part.
  - k. Step 11: Post approval actions.
    1. Upon approval of a zoning change amendment to the official zoning map by the board of trustees, the Town Administrator or designee shall cause an appropriate revision of the official zoning map to be prepared for recording with the county clerk and recorder. In the event the zoning amendment was initiated by an

- interested party, the petitioner shall pay the town's cost for the preparation of the revision to the official zoning map.
2. The applicant initiating the official zoning map amendment shall have 30 days after approval of the amendment by the board of trustees to submit to the Town Administrator or designee two Mylar copies and three copies of the approved zoning amendment map for recording, along with the recording fees and all other costs billed by the town relative to the zoning amendment. A licensed surveyor, engineer or GIS specialist shall prepare the zoning amendment map. Inaccurate, incomplete, or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one 11-inch by 17-inch Mylar reduction of the zoning amendment map and an Auto CAD drawing file (release 12 or higher) or ARCVIEW GIS drawing file of the zoning amendment map on a flash drive, or by other acceptable electronic transfer.
  3. Within 30 days of receipt of the zoning amendment map, the Town Administrator or designee shall review the documents for compliance with the board of trustee's approval, obtain the town officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the El Paso County Clerk and Recorder's Office for recordation.

(10) *Map amendment upon zoning establishment or modification.* Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment, and the initials of the person who checked and approved the change to the map.

(11) *Criteria for amendments to official zoning map.* For the purpose of establishing and maintaining sound, stable, and desirable development within the town, the official zoning map shall not be amended except:

- a. To correct a manifest error in an ordinance establishing the zoning for a specific property.
- b. To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the town generally.
- c. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the adopted community master plan (aka comprehensive plan).
- d. The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the community master plan and the rezoning will be consistent with the policies and goals of the community master plan.
- e. The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
- f. A rezoning to a planned development district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.
- g. This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map, nor shall such criteria necessarily apply with respect to a comprehensive reclassification of land into the zoning districts established by this chapter or established by any later comprehensive revision of this chapter.

(Ord. No. 3-2024, § 1(Exh. A), 2-22-2024)

### **Section 17.5.305 Procedure for Amending the Community Master Plan **NEW** as requested by PC**

- (a) Purpose and Intent. It is the intent and purpose of this section to implement the Town's authority to adopt a Comprehensive Plan pursuant to C.R.S. § 31-23-206 (Master plan) and § 31-23-207 (Purposes in view). In Palmer Lake, the Comprehensive Plan shall be known as the Community Master Plan.
- (b) This section ensures that all proposed amendments to the Official Zoning Map (rezonings) further the coordinated, adjusted, and harmonious development of the municipality and promote the health, safety, order, convenience, and general welfare of the community.
- (c) Consistency Requirement for Rezoning. No amendment to the Official Zoning Map (rezoning) shall be approved unless the proposed rezoning is consistent with the Town's adopted Community Master Plan (aka Comprehensive Plan). A rezoning is considered consistent if it meets or furthers the goals, objectives, policies, and future land use designations of the Community Master Plan (aka Comprehensive Plan)
- (d) Community Master Plan Amendment Required. If the Town Administrator or designee finds that a proposed rezoning is not consistent with the adopted Community Master Plan, the applicant shall first pursue an amendment to the Community Master Plan for the affected property. The Town Administrator may request that the Planning Commission make such a determination as the body that adopts the comprehensive plan. No rezoning ordinance shall be effective until the Community Master Plan has been amended to accommodate the rezoning. This requirement ensures that land use decisions conform to the adopted plan as the guide for future development.
- (e) Concurrent Processing of Plan Amendments and Rezoning. The Town may accept and process an application for a Community Master Plan amendment concurrently with the related rezoning application. However, the ordinance amending the Community Master Plan shall be adopted by the Board of Trustees prior to or at the same meeting at which the rezoning ordinance is adopted.
- (f) Section 5. Review Criteria. In determining whether a proposed rezoning is consistent with the Community Master Plan, the Planning Commission and Board of Trustees shall consider the following factors (as applicable to the property and proposal):
  - (1) The extent to which the proposed rezoning conforms to the goals, objectives, and policies of the adopted Community Master Plan, and to the future land use map.
  - (2) Whether there have been significant changes in local conditions or new information since the Community Master Plan's adoption that justify an amendment to the Plan or rezoning.
  - (3) The compatibility of the proposed zoning and land use with existing and planned uses on adjacent properties.
  - (4) Whether adequate public facilities and infrastructure (such as streets, utilities, schools, and parks) are available to serve the development allowed by the proposed zoning.



- (5) The consistency of the rezoning with the purpose and intent of the proposed zoning district.
- (6) Whether the rezoning would correct an evident error in the current zoning or reflect changed conditions that render the existing zoning inappropriate.

*Note for PC: Colorado Revised Statutes §§31-23-206 (Master plan) and 31-23-207 (Purposes in view) provide that the comprehensive plan is an advisory guide for municipal development*

### **Section 17.5.310. Procedures for Annexing Land (this was 17.14.040)**

**Does Scott Krob want to clean this up regarding the Planning Commission's role?**

#### **~~17.14.040. Annexation of land.~~**

(a) *Applicability.* This section shall apply to all actions to annex new land into the municipal boundaries of the town and shall apply to all property sought to be annexed to the town by voluntary petition of landowners, except this section is not intended to apply to and nothing in this section shall be interpreted to increase the requirements or add to the processes for annexation of enclaves, partially surrounded land, and municipally owned land as provided for in C.R.S. § 31-12-106.

(b) *Specific procedure.* The applicant for the annexation of land and the town shall complete all those actions necessary for full compliance with C.R.S. §§ 31-12-101 et. seq., the Colorado Annexation Act of 1965, as amended.

In case of any conflict between the provisions of this Code and the requirements of C.R.S. §§ 31-12-101 et. seq., the provisions of C.R.S. §§ 31-12-101 et. seq. shall apply.

By petitioning for and accepting annexation of property to the town, the petitioner shall be deemed to agree to be governed and abide by the terms and conditions herein set forth, together with any other conditions or requirements which the town board of trustees may lawfully impose in a specific case.

- (1) The petitioner has the burden of demonstrating that his or her property is eligible for annexation, as defined by C.R.S. §§ 31-12-104 and 31-12-105.
- (2) Property annexed to the town shall be eligible for municipal services, including utilities, subject to and as provided by the annexation agreement pertaining to the annexation, this Code, and town ordinances, resolutions, rules, and regulations as now or hereafter constituted.
- (3) Each application for annexation shall be accompanied by an application for zoning of the annexed properties into one or more of the zoning districts shown in **article 2** and the town shall complete the procedure for making a decision on the proposed zoning of the land pursuant to section **17.14.010** rezoning (amendment to official zoning map), but final action by the town board of trustees regarding zoning for the annexed property shall not be taken before the annexation of the property has been completed.
- (4) The town shall provide to the applicant a draft annexation agreement prior to the zoning public hearing before the planning commission. The annexation agreement shall outline

the responsibilities of the applicant and the town regarding the provision and extension of streets and utilities, the dedication of water rights, the payment of fees and charges related to the annexation and proposed development, the provision of facilities for the public and for residents and occupants of the annexed land, and other matters related to the impacts of the annexation on the town. Any changes or additions to the annexation agreement proposed by the town or suggested by the applicant shall be resolved before the public hearing before the planning commission. If a property to be annexed has multiple ownership, all of the owners must sign the annexation agreement. If multiple properties are combined for annexation purposes, but each will be developed separately, separate annexation agreements are to be signed by each owner. The final annexation agreement shall be signed by the applicant and made available to the Town Administrator or designee before final action by the town board of trustees on the proposed annexation.

(c) *Request for concept review.* Prior to the submission of a petition for annexation, the petitioner may request a concept review. Upon receipt of a request, the town will schedule a meeting with the planning commission and/or the town board of trustees, as necessary.

(1) Purpose of concept review. The concept review is an informal opportunity for the petitioner to discuss the scope and general concept of the proposed annexation with the planning commission and/or the board of trustees and to receive assistance in identifying issues and concerns regarding the proposed annexation that would likely be of concern to the planning commission, the board of trustees and the public prior to the submission of a petition for annexation.

(2) Information required. At the concept review, the petitioner shall be prepared to provide general information regarding the property to be annexed, including but not limited to:

- a. Existing uses of the property.
- b. Land uses and densities proposed for the property following annexation and expected zoning classifications.
- c. Major public improvements necessary to serve the property, including potential access points and major streets.
- d. Anticipated public utility and service demands.
- e. Natural hazards and physical features.
- f. Sketches, photographs and conceptual drawings or plans that will aid in the understanding of the proposed annexation.
- g. Statement of benefit to the town and any other matters relevant to the annexation, development, and service needs of the property.

(d) *Petition for annexation.* In addition to the matters and allegations required by C.R.S. § 31-12-107, the petition for annexation shall contain the information set forth below:

(1) A written legal description of the boundaries of the area proposed to be annexed. If requested by the town, the petitioner shall include within the boundaries of such area the full width of any and all county roads designated by the town for annexation, along with the privately owned lands.

(2) Evidence of fee ownership of each separately owned parcel of land proposed for annexation. Such evidence shall consist of a commitment for or a title insurance policy, a written attorney title opinion, a subdivision certificate or a written ownership and encumbrance report, all dated within 30 days before the date of submission to the town. If a corporation, partnership, or joint venture owns the property, the petitioner shall furnish such additional information (e.g.,



partnership agreement or joint venture affidavit, as provided by C.R.S. § 38-30-166) as may be requested by the town in order to determine that the signatories have been authorized by that entity to execute such documents.

(3) Legal descriptions of water and ditch rights appurtenant to the properties within the area proposed to be annexed.

(4) Criteria for decision. In making their recommendation or decision, the planning commission, and board of trustees, respectively, shall approve the annexation of land, only if it makes the findings required by C.R.S. § 31-12-110. In addition, the annexation shall comply with the annexation policies of the town's community master plan (aka comprehensive plan) and the adopted 3-Mile Plan.

(5) Required notice. An application for the annexation of land requires special noticing requirement pursuant to C.R.S. § 31-12-108. Notice shall be published in a newspaper of general circulation in the municipality at least once each week for four consecutive weeks before the hearing.

(1) Published notice shall:

- a. Identify the application type.
- b. Describe the nature and scope of the proposed project.
- c. Identify the location subject to the application.
- d. Identify where and when the application and associated materials may be inspected; and
- e. Indicate opportunity to appear at the public hearing, including the public hearing date, time, and location.

(2) Mailed notice complying with C.R.S. § 31-12-108 shall be sent to the town board of trustees and the town attorney and to any special district or school district in which the areas to be annexed are located, at least 25 days before the date fixed for the public hearing.

(3) Mailed notice complying with C.R.S. § 31-12-108 shall be sent to the owners of real property within 300 feet of the boundaries of the proposed annexation, irrigation ditch companies whose rights-of-way traverse the property to be annexed, and to the mineral estate owners and their lessees of the property to be annexed. Notice provided by the town to the owners of the minerals estate and their lessees shall not relieve the petitioner(s) from the responsibility of providing notice as required by C.R.S. § 24-65.5-101, et. seq.

(4) In the case of a "flagpole" annexation, the town shall also provide notice to abutting property owners as specified in C.R.S. § 31-12-105 as amended.

(g) *Annexation agreement.*

(1) Agreement required. As a condition of approval of an annexation, the town will require the petitioner to agree to certain terms and conditions for such annexation and to execute an annexation agreement memorializing such agreement.

(2) Enforceability. The terms and conditions of the final annexation agreement are not effective or enforceable until approved by the town board of trustees by ordinance.

(h) *Deed conveying water rights.* Any person seeking to annex to the town shall comply with the requirements of section 13.28.040 of the Town Code regarding deeding of water and water

rights to the town, unless expressly exempted from doing so by the terms of an annexation agreement.

(Ord. No. 4-2024, § 1(Exh. A), 4-11-2024)

### **Sec. 17.5.320. Procedures for Change of Use.**

(a) **Applicability.** A change of use approval is required for any change from one use to another use in an existing building, structures or improvements and where the new use is allowed by right in the zoning district.

(b) **Purpose.** The purposes of the change of use approval are:

(1) Public safety as provided for in the building, fire, and health codes, and

(2) Availability of adequate services such as water and sewer.

(c) **Applicability.** A change of use approval is required for any change from one use to another use in an existing building and where the new use is allowed by right in the zoning district.

(d) **Review process**

(1) **Step 1:** Pre-application meeting at the discretion of the applicant.

(2) **Step 2:** Submit a change of use application packet consisting of one paper copy of all items and one digital copy in the PDF file format. The application shall include a Site Development Plan with the following information.

- a. Title of project.
- b. North arrow, scale 1" = 20' or as approved by the Town.
- c. Name, address, and phone number of property owner.
- d. Name, address, and phone number of the person preparing the drawing.
- e. Date of preparation.
- f. Bearings and distances of all lot lines.
- g. Existing easements on the lot.
- h. Footprint of any building or structures on the lot.
- i. Building setbacks from all property lines.
- j. Table of statistics including building gross floor area, height, and site coverage.
- k. Floor elevation in USGS.
- l. Location and size of water and sewer service to the building(s).

m. ~~Architect's written analysis~~ Town Administrator or designee's determination if the ~~of~~ the proposed use is in compliance with the Town Code and PPRBD determination is the proposed change of use is in compliance with Fire Code, and Building Code.

n. Water Engineer's written analysis of the adequacy of water rights for the proposed use for any change of use that increases water demand by 10%.

(3) Step 3: Within fifteen (15) days of submittal, Staff shall review the change of use application for completeness pursuant to Section 17.12.050 and shall notify the applicant if the application is complete and accepted.

(4) Step 4: Staff distributes copies the building official, fire chief, and town engineer. and appropriate reviewing agencies.

(5) Step 5: Within fifteen (15) days, the other reviewers may submit comments to the Town Administrator or designee, who will forward all comments to the applicant.

(6) Step 6: Town Administrator or designee reviews the comments and the use's compliance with the Land Use Code, previously approved Site Development Plans, and makes a decision on the change of use.

(7) If the Town Administrator or designee determines the proposed change of use is permitted in the zoning district but is not in substantial compliance with previously approved Site Development Plans or Site Development Plan agreements, a new Site Development Plan application shall be submitted by the owner subject to the requirements in Section 17.5.XX.

## Section 17.5.340 Variances

(a) Specific Plan Required. The BOA may authorize variances from the requirements of a zoning district based on unique or irregular physical circumstances or conditions that are unique to the land or building, structures or improvements. Unless otherwise specified by the BOA, a variance runs with the land and succeeds to the benefit of subsequent owners under the terms and conditions of the approved variance.

(b) Pursuant to Chapter 2 of the Municipal Code, Article XI, the Board of Adjustment shall not consider or grant use variances.

(c) Application. An application packet for a variance shall be submitted pursuant to Section 17.5.205.

(d) Procedure: The BOA shall hold a public hearing on the variance pursuant to Section 17.5.220 and notice all adjoining property owners pursuant to Section 17.5.230. Any final determination of the Board of Adjustment shall be reported in writing over the signature of the chairperson of the BOA.

(e) Criteria. To grant a variance to this Title, as outlined in CRS 31-23-307 as may be amended, the BOA shall find that all of the following have been satisfied:

(1) That there are unique physical circumstances or conditions such as irregularity, narrowness, or shallowness of the lot, or exceptional topographical or other physical condition particular to the affected property.

(2) That, because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of this Title.

- (3) That due to such unique physical circumstances or conditions, the strict application of this Title would create a demonstrated hardship.
  - (4) That the demonstrable hardship is not self-imposed.
  - (5) That the variance, if granted, will not adversely affect the proposed development, or use of adjacent property or neighborhood.
  - (6) That the variance, if granted, will not change the character of the zoning district in which the property is located.
  - (7) That the variance, if granted, is in keeping with the intent of this Title.
  - (8) That the variance, if granted, will not adversely affect the health, safety, or welfare of the citizens of Town.
- (f) BOA Public Hearing and Action on the Variance. The Board of Adjustment shall make the decision on variances at a regular meeting of the Board.
- (1) The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the BOA.
  - (2) The BOA shall have all the powers of the applicable Town administrative official on the action appealed. The BOA may in whole or in part affirm, reverse, or amend the decisions of the applicable Town administrative official.
  - (3) The BOA may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of this Title.
  - (4) The BOA may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested.
  - (5) No single decision of the BOA sets a precedent. The decision of the BOA shall be made on the particular facts of each case.
  - (6) Variances granted by the BOA shall be recorded with the El Paso County Clerk and Recorder at the expense of the applicant.
- (e) Any appeal of the decision of the BOA may be made to the District Court as provided by law; provided however, that such appeal must be made prior to thirty (30) days following the date of the final action taken by the BOA, as provided by Rule 105, Colorado Rules of Civil Procedure.

### **Section 17.5.350 Appeals**

- (a) The Board of Adjustment (BOA) shall hear appeals and decide appeals where it is alleged that there is an error in any final order, requirement, decision, or determination made by any administrative official of the Town charged with the enforcement of this Code.
- (b) Any aggrieved person may file an application for appeal pursuant to Section 17.5.205 within thirty (30) days following the final action or decision from which the appeal is taken and shall include all information required by the Town Attorney. The BOA shall hold a public hearing on the appeal pursuant to Section 17.5.220.
- (c) The BOA may reverse or affirm, wholly or in part, or may modify the final order, requirement, decision, or determination of the Town official where the BOA finds that the decision was beyond the official's duties, not in compliance with adopted regulations or was made in error.

- (d) An appeal from a final order, requirement, decision, or determination shall stay all proceedings unless the Town Administrator certifies that such stay would cause imminent peril to life or property.
- (e) Any further appeal from the decision of the BOA may be made to the courts, as provided by law; provided that such appeal is made prior to 30 days following the date of the BOA's decision.
- (f) Appeal Criteria for Approval. The BOA, in hearing an appeal from an interpretation of this Title, shall consider:
  - (1) The technical meaning of the provision being appealed;
  - (2) The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and
  - (3) The intent of the provision in implementing the Community Master Plan, the 3-Mile Plan and other adopted plans within the Town.

### **Sec. 17.5.350. Conditional Review Use applications.**

- (a) All conditional review uses specified in each zone district will be subject to a two-step review process.
  - (1) Step 1: Planning Commission review and recommendation.
  - (2) Step 2: Board of Trustees review and decision.
- (b) Applicants for a conditional review use permit shall complete an application packet pursuant to 17.5.205.
- (c) The completed application packet and supplementary submittal materials shall be filed with the Town Administrator or designee at least 30 days prior to the Planning Commission Public Hearing.
- (d) The Town Administrator or designee shall review the application packet for completeness pursuant to Section 17.12.050.
- (e) The Planning Commission shall hold a public hearing on the conditional review use pursuant to Section 17.5.220, and notice shall be sent to all adjoining property owners pursuant to Section 17.5.230, and shall make a recommendation to the Board of Trustees.
- (f) The Board of Trustees shall hold a public hearing on the conditional review use pursuant to Section 17.5.220 within 45 days of the recommendation of the Planning Commission.
- (g) Notice shall be sent to all adjoining property owners pursuant to Section 17.5.230.
- (h) The following criteria shall be used to evaluate the applicant's request:
  - (1) The conditional review use will satisfy all applicable provisions of Title 17 and Title 16 unless a variance is requested.
  - (2) The conditional review shall conform to or further the goals, policies, and strategies set forth in the Community Master Plan.
  - (3) The conditional review use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, storm

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

- (4) The conditional review 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.
- (5) The conditional review use will result in efficient on- and off-site traffic circulation, which will not have a significant adverse impact on the adjacent use or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
- (6) Potential negative impacts of the conditional review use on the neighborhood have been mitigated through setbacks, architecture, screen walls, buffering, landscaping, site arrangement, or other methods. The applicant shall satisfactorily address the following impacts:
  - a. Traffic;
  - b. Activity levels;
  - c. Light;
  - d. Noise;
  - e. Odor;
  - f. Building type, style, and scale;
  - g. Hours of operation;
  - h. Dust;
  - i. Erosion control, and
  - j. Effect on neighborhood character.
- (7) The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained.
- (i) Conditions imposed on any approved conditional review use application may include, but are not limited to, time limits, future review and renewal of the permit, limits to quantities of material allowed on the site, pollution control measures, and enhancements to landscaping, screening, or buffering requirements.
- (j) The Board shall approve the Conditional review use by Resolution. The Resolution shall be recorded with the El Paso County Clerk and Recorder's Office.

### **Sec. 17.5.370. Procedures for a Site Development Plan.**

- (a) **Applicability.** Pursuant to 17.12.075, Site Development Plan approval is required for a building permit for all multi-family, commercial, and industrial developments, as well as parks, open space, and trails. The only development where a Site Development Plan is not required is for single-family detached development or duplexes. The construction, remodel, or expansion of a single-family or two-family dwelling unit/structure only requires a plot plan.

- (b) Purpose. The Site Development Plan shows how the lot will be developed so that the Town can make sure that the site design will be in compliance with all Town regulations. It is also part of the process for obtaining a construction permit from the town through the Pike Peak Regional Building Department (PPRBD) an applicant must submit a site development plan for any new construction or building addition.
- (c) Site Development Plan Review Process.
- (1) Development applications, except for single-family and duplex dwelling units involving less than 10,000 square feet of new, remodeled, or an expansion of an existing structure or of land area, shall be reviewed administratively. This includes review by the Town Administrator and, if necessary, the Development Review Team, Public Works, Fire District, Building Official, and other referral agencies as needed in accordance with Section 17.5.210.
  - (2) Development applications involving 10,000 square feet or more of new, remodeled, or an expansion of an existing structure or land area require one (1) properly noticed public hearing in front of the Planning Commission in accordance with Sections 17.5.220 and 230.
- (d) Site Development Plan Submittal Requirements. (the submittal requirements
- (1) Step 1: Submit a complete application packet pursuant to 17.5.205. In addition to the requirements in 17.5.205, the application shall include the following:
    - a. Site Development Plan. The Site Development Plan shall be a minimum of eighteen (18) inches by twenty-four (24) inches and shall provide the following information:
      1. Title of project.
      2. North arrow, scale (no greater than 1" = 50'), and date of preparation.
      3. Vicinity map.
      4. Address of project.
      5. Legal description of property.
      5. Name, address, and phone number of property owner.
      7. Name, address, and phone number of the person or firm responsible for the plan.
      8. Lot size (square footage).
      9. Bearings and distances of all lot lines.
      10. Existing and proposed easements and rights-of-way.
      11. Existing and proposed paved areas and sidewalks on the site and in the adjacent rights-of-way, all dimensioned, showing how pedestrians will have access to the site and buildings.
      12. Gathering areas for people (if applicable).
      13. Existing and proposed curb cuts on the site and in the adjacent rights-of-way (on both sides of perimeter streets), all dimensioned.
      14. Existing and proposed two-foot contours.



15. Proposed lighting including a photometric plan.
17. Finished floor elevations for all structures.
17. Footprint (including roof overhangs and eaves, decks, balconies, outside stairs and landings) of all proposed structures and their use with their dimensions and locations noted with respect to the property lines.
18. Existing structures and their use.
19. Square footage of the proposed building and any structures, and the footprint of the proposed building and structures.
20. Proposed structure height.
21. For commercial and industrial uses, the type of activity and the number of employees.
22. For multifamily residential, the number of residential units and bedrooms per unit.
23. Location of proposed signs.
24. Specifications for the signs and lights, including type, height, and general conformance to the Code. For commercial and industrial uses, a photometric plan shall be submitted that depicts all lighting fixtures and the light spread (in foot-candles) of these fixtures across the site to all property boundaries.
25. Proposed traffic controls and striping for parking areas (all lanes, driveways, and parking spaces must be dimensioned).
25. Trash disposal areas and enclosures, including specifications for enclosures.
27. Location and size of existing and proposed water and sewer service connections and tap sizes (including those for irrigation systems).
28. Location and size of water and sewer lines to which the service connections will be or are made.
29. Location and size of water meters.
30. Location and size of backflow-prevention devices.
31. Indication of how and where the perimeter drain will drain (if one exists).
32. Location of existing electrical lines and poles on or adjacent to the site.
33. Location of proposed electrical service connection and meter location.
34. Location of electric transformer.
35. Location of all fire hydrants. If none exist on site, note the distance and direction of the closest hydrant adjacent to the site within three hundred (300) feet.
35. Location of detention/retention areas and storm sewer infrastructure with the required drainage easements.
37. The distance from the proposed building or structure to adjacent lot lines, easements, and adjacent structures.
38. A land use chart (table).



39. Certificate blocks for signatures of the owner, surveyor, and Town approval.
- (2) Step 2: Certification of Completeness pursuant to 17.12.050.
  - (3) Step 3: Referral to Agencies pursuant to 17.5.220. The referral period shall be thirty days.
  - (4) Step 4: Staff Reviews Application and Prepares Comments. Staff will review the Site Development Plan to ensure it is consistent with the Site Development Plan review criteria. Following the review, Staff will prepare a written report outlining any changes that the applicant must make before the Site Development Plan can be forwarded to the reviewing body. This report will be forwarded to the applicant.
  - (5) Step 5: Applicant Addresses Staff Comments. The applicant shall address all of the Staff and referral agency comments, and then submit the following to the Town:
    - a. A letter explaining how all of the comments have been addressed; and
    - b. Revised maps and other documents.
  - (6) Step 6: Schedule Public Hearing and Notice property owners for sites 10,000 square feet and larger pursuant to 17.5.220 and 17.5.230.
  - (7) Step 7: Planning Commission Public Hearing and Decision. The Planning Commission shall hold a public hearing to review applications for buildings based on the Site Development Plan review criteria. The Planning Commission shall then approve, approve with conditions, deny the application or continue the hearing to a specific date and time. The Planning Commission may forward an application to the Town Board of Trustees for approval if they deem it necessary.
  - (8) Step 8: Applicant Addresses Planning Commission Conditions. The applicant shall revise the Site Development Plan based on the Planning Commission's conditions of approval and submit it to the Town.
  - (9) Step 9: Site Development Plan Agreement. Staff may require that the applicant execute a Site Development Plan agreement to assure the construction of on-site and off-site improvements as a condition of approval of the Site Development Plan. Guarantees in the Site Development Plan agreement shall be secured by a surety in a form approved by the Town.
  - (10) Step 10: Board of Trustees Public Hearing and Public Notification Process for Projects over 10,000 sq. ft. or if Planning Commission forwards the application for action, public notification and hearing procedures will follow in accordance with Sections 17.5.220 and 17.5.230.
  - (11) Step 11: Board of Trustees Action. The Site Development Plan shall be presented to the Board of Trustees for its review and action at a public hearing. The Board of Trustees may approve, conditionally approve, or deny the Site Development Plan based on meeting the following review criteria.
    - a. All of the information required on a Site Development Plan is shown.
    - 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 the current Town Master Drainage Plan, on file at the Town Hall.

(12) Step 12: Post. Approval Actions.

- a. Submit and Record Site Development Plan. Upon approval of a Site Development Plan, the applicant shall have thirty (30) days to submit two (2) original signed Mylars. The Town shall submit the approved Site Development Plan to the County Clerk and Recorder's Office for recording. The recording fees shall be paid by the applicant.
- b. Building Permit. A building permit shall be issued only when a Site Development Plan has been approved and recorded.
- c. Certificate of Occupancy. When building construction and site development are completed in accordance with the approved Site Development Plan and building permit, a Certificate of Occupancy may be issued.
- d. Phasing and Expiration of Approval. The Site Development Plan shall be effective for a period of three (3) years from the date of approval, unless stated otherwise in the written Site Development Plan approval. Building permits shall not be issued based on Site Development 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.

(g) Amendments to Approved Site Development Plans.

- (1) 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 Development 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.
- (2) Changes to approved Site Development Plans that exceed the ten percent 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 Development Plan application. Such amendments shall conform to the review procedures outlined in Section 17.5.340. A complete Site Development Plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.

### **Sec. 17.5.380. Plot plan.**

- (a) Applicability. The plot plan is required to apply for a building permit for any building or structure, including additions, constructed on a single-family home or duplex lot.
- (b) Purpose. The plot plan shows where the proposed building or structure will be located on the lot so that the Town can make sure that the proposed location will be in compliance with all Town regulations and the required submittal items for the Pikes Peak Regional Building Department (PPRBD).

## (c) Plot Plan Process.

(1) Step 1: Submit Plot Plan Application Package. A complete application packet pursuant to 17.5.205 shall be submitted to the Town Administrator or designee. In addition to the requirements in 17.5.205, the application shall include the following:

e. Plot Plan. The plot plan shall be a minimum of eight and one-half (8½) inches by eleven (11) inches and shall provide the following information:

1. Title of project.
2. North arrow, scale (1" = 20' or as approved by the Town), and date of preparation.
3. Name, address, and phone number of property owner.
4. Lot number, block number, and name of subdivision.
5. Lot size (square footage).
5. Bearings and distances of all lot lines.
7. Existing easements on the lot.
8. Footprint of the proposed building or structure, dimensioned.
9. Square footage of the proposed building and the footprint of the proposed building.
10. Distance from the proposed building or structure to all lot lines.
11. All existing buildings or structures on the lot.
12. Driveway.
13. Existing and/or proposed water and sewer service lines on the lot.
14. Elevations of:
  - a. The finished floor for the house and any accessory structures, including the garage.
  - b. The ground 10 ft away from any structure.
  - c. The lot corners.
15. Height of all proposed buildings.
16. Location of all accessory structures and any garage or Accessory Dwelling Unit within the building.

f. Demonstrate in written and/or graphic form how the proposed structure is consistent with the applicable "Development Standards" found in Article 3 of this Title.

g. Drainage Information. Provide the Town with information regarding how the lot will drain.

(2) Step 2: Staff Reviews Plot Plan Application and Prepares Comments. The Town Administrator or designee will review the Plot Plan for compliance with the following criteria:

- (3) Step 3: Applicant Addresses Staff Comments. If necessary, the applicant will make all necessary changes to the plot plan.
- (4) Step 4: Plot Plan Decision. Staff will complete the final review of the plot plan to ensure that the Plan is complete and complies with this Title. If the Plan is determined to be complete and in compliance, it is approved by Staff and a Certificate of Zoning Compliance pursuant to **17.12.065**.
- (c) Plot Plan Review Criteria. The plot plan must meet the following review criteria:
  - (1) All of the information needed on a plot plan is shown.
  - (2) The lot size and lot dimensions are consistent with what is shown on the approved final plat.
  - (3) No buildings, structures, or improvements infringe on any easements.
  - (4) The proposed site grading is consistent with FHA standards (if insured by FHA); It shall also be consistent with the approved subdivision master grading and drainage plan. The drainage must comply with all applicable stormwater quality control regulations.
  - (5) The density and dimensions shown conform with the density, dimensional standards and development standards in Article 2 of this Title 17 or the approved PD requirements.

### **Section 17.5.400 Stormwater Quality Control Procedures**

The application requirements and review process for Planned Developments can be found in Section **17.3. 620**.

### **Sec. 17.5.410 Planned Development District Procedures**

The application requirements and review process for Planned Developments can be found in Section **17.72**.

The following existing sections will be moved to the end of this Article.

### **Section 17.5. 500 Administration of Building Permits and Enforcement –**

- 17.92.010.. Zoning officer designated.*
- 17.92.020.. Building permit—Required.*
- 17.92.030.. Building permit—Application.*
- 17.92.050.. Building permit—Plans*
- 17.92.050.. Building permit—Forms.*
- 17.92.070.. Building permit—Issuance; term.*
- 17.92.080.. Enforcement*
- 17.92.090. – Penalties*
- 17.100. Fees (no change)*