



LOVELAND PLANNING COMMISSION MEETING AGENDA

**Monday, January 23, 2017
500 E. 3rd Street – Council Chambers
Loveland, CO 80537
6:30 PM**

Notice of Non-Discrimination

It is the policy of the City of Loveland to provide equal services, programs and activities without regard to race, color, national origin, creed, religion, sex, sexual orientation, disability, or age and without regard to the exercise of rights guaranteed by state or federal law. It is the policy of the City of Loveland to provide language access services at no charge to populations of persons with limited English proficiency (LEP) and persons with a disability who are served by the City.

For more information on non-discrimination or for translation assistance, please contact the City's Title VI Coordinator at TitleSix@cityofloveland.org or 970-962-2372. The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act (ADA). For more information on ADA or accommodations, please contact the City's ADA Coordinator at ADACoordinator@cityofloveland.org or 970-962-3319.

Notificación en contra de la discriminación

La política de la Ciudad de Loveland es proveer servicios, programas y actividades iguales sin importar la raza, color, origen nacional, credo, religión, sexo, orientación sexual, discapacidad, o edad y sin importar el uso de los derechos garantizados por la ley estatal o federal. La política de la Ciudad de Loveland es proveer servicios gratis de acceso de lenguaje a la población de personas con dominio limitado del inglés (LEP, por sus iniciales en inglés) y a las personas con discapacidades quienes reciben servicios de la ciudad.

Si desea recibir más información en contra de la discriminación o si desea ayuda de traducción, por favor comuníquese con el Coordinador del Título VI de la Ciudad en TitleSix@cityofloveland.org o al 970-962-2372. La Ciudad hará acomodaciones razonables para los ciudadanos de acuerdo con la Ley de Americanos con Discapacidades (ADA, por sus iniciales en inglés). Si desea más información acerca de la ADA o acerca de las acomodaciones, por favor comuníquese con el Coordinador de ADA de la Ciudad en ADACoordinator@cityofloveland.org o al 970-962-3319.

Title VI and ADA Grievance Policy and Procedures can be located on the City of Loveland website at: cityofloveland.org/

LOVELAND PLANNING COMMISSIONERS: Jeremy Jersvig (Chair), Carol Dowding (Vice-Chair), Michele Forrest, Pat McFall, Rob Molloy, and Mike Ray, David Cloutier, Jamie Baker Roskie, and Jeff Fleischer.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. REPORTS:

a. Citizen Reports

This is time for citizens to address the Commission on matters not on the published agenda.

b. Planning Staff Comments

1. 2/13/16 Agenda Preview:

i. Mirasol GDP Amendment

ii. Loveland Original Town Vacation (Foundry Project)

- 2. Recap: January 20th Commercial Sites Tour**
- 3. Next City Tour: Friday, February 10th**
- 4. Hot Topics:**

c. Assistant City Attorney Comments

d. Committee Reports

e. Commission Business & Comments

1. Election of Officers for 2017

- **Chair**
- **Vice Chair**
- **Zoning Board of Adjustment Hearing Officer**
- **ZBA Hearing Officer Alternate**

IV. APPROVAL OF MINUTES

Review and approval of the January 9, 2017 Meeting minutes

V. REGULAR AGENDA:

1. Unified Development Code

This is a public hearing item concerning new legislation. The first written component of the Unified Development Code (UDC) has been drafted and will be presented to the Planning Commission. This component will become Chapter 2 of the UDC upon completion of the document later in 2017. It addresses procedures for processing development applications, along with the associated requirements for public notice, neighborhood meetings, and appeals. The presented draft is unchanged from the draft presented to the Commission at the November 28th study session and the draft presented at the City Council's December 13th study session. Staff is requesting that the Commission recommend approval of this portion of the UDC to City Council. Upon the Commission's recommendation, this portion will be put on hold while other portions of the UDC are drafted and undergo review. Once all components of the UDC are completed, and have been reviewed by City Council and recommended for approval by the Planning Commission, a complete final draft will be brought back to the Commission for a recommendation of approval. The final version will then be forwarded to City Council for adoption.

2. Finalize 2016 Accomplishments and 2017 Goals & Discuss Boards and Commission Summit

This information will be presented at the annual Boards and Commissions Summit. The 2017 goals will also be used to guide Commission activities throughout the year.

VI. ADJOURNMENT

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
January 9, 2017

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on January 9, 2017 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Dowding, Molloy, Forrest, Ray, and Roskie,. Members absent: Commissioners McFall, Cloutier and Fleischer. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, Assistant City Attorney; Linda Bersch, Interim Planning Commission Secretary.

These minutes are a general summary of the meeting. A complete video recording of the meeting is available for two years on the City's web site as follows: <https://loveland.viebit.com/>

CITIZEN REPORTS

There were no citizen reports.

STAFF MATTERS

1. Planning Staff Updates

a. 1/23/2017 Agenda Preview

Mr. Robert Paulsen, Current Planning Manager, provided an overview of the January 23rd meeting agenda. That meeting will be a public hearing on the first phase or chapter of the Uniform Development Code (UDC). He noted that each commissioner has a binder that contains the UDC materials for that meeting. This component will set the framework for this project. If Commissioners have any questions after reviewing these materials, please call or send an e-mail to Mr. Paulsen or Karl Barton. At the end of this meeting, the Planning Commission will be asked to make a recommendation to City Council regarding the approval of this portion of the UDC. This chapter will then sit until all component pieces have been reviewed and the UDC will then come back to the Planning Commission in its totality for final recommendation to City Council. The Council will see these pieces of the code in study sessions but the UDC will not formally come before the council until all components are complete.

b. Planning Commission and Title 18 City Tours

Mr. Paulsen informed the Commissioners that two site tours have been scheduled that include the Commission and the Title 18 Committee. The first is a tour of selected commercial sites along the Highway 34 and 287 corridors. It will take place on Friday, January 20th from 1 to 4 pm. The itinerary will focus on 5 to 6 sites that illustrate what works and what does not and what might have been better. If there is anything specific the Commissioners would like to see, please let Bob know. A COLT bus has been reserved for the tours. The second tour will be February 10th from 1 to 4 pm and it will likely focus on residential development. **Commissioner**

Ray commented that these tours are very valuable and encouraged all Commissioners to attend.

c. Boards and Commission Summit March 9th

Mr. Paulsen alerted the commissioners that the annual summit for Boards and Commissions is on March 9th. Two commissioners normally attend, usually the Chair and Vice-Chair, but who attends is up to the Commission. This year the Planning Commissions Accomplishments for 2016 and the Goals for 2017 are to be presented.

d. Planning Commission Reappointments approved by City Council

Mr. Paulsen noted that **Commissioners Jeremy Jersvig, Mike Ray and Dave Cloutier** have received approval from City Council to continue to serve on the Planning Commission. Congratulations to them.

e. Hot Topics

- **Mr. Paulsen** reported that five copies of the book “For the Love of Cities” have been ordered for the Commissioners’ review.
- **Mr. Paulsen** informed to Commissioners that the memo in front of them is from the Office of the City Attorney regarding how other Colorado communities address prairie dog management. This was prepared at the request of City Council in response to the recent citizen interest in the topic.

2. City Attorney’s Office Comments

- **Moses Garcia, Assistant City Attorney**, reminded that the office is still under the direction of **Interim City Attorney, Clay Douglas**. At their January 10th meeting, City Council will determine how they will move forward to find a permanent replacement.
- **Mr. Garcia** also noted that **Tree Ablao**, Assistant City Attorney, has resigned from the City Attorney’s office. An offer was extended to a new attorney, who will be the prosecutorial attorney. Mr. Garcia will continue as the Planning Commission representative.
- **Mr. Garcia** informed the Commissioners that the ordinance regarding the expansion of the residency requirement for Planning Commissioners should go before the City Council sometime in February. It will require a first and second reading.

COMMITTEE REPORTS

There were no committee reports.

COMMISSIONER COMMENTS

Commissioner Dowding reported on her attendance at the City Council meeting where a discussion on the UDC took place. She wanted fellow Commissioners to know there was concern expressed about the appeal process, as illustrated on page 4 of Attachment 5, in

regard to the appeal of director decisions; specifically, that appeals conducted by the Planning Commission would be final. The opportunity for further remedy would be with the court system. She noted that this issue had been previously discussed as a concern of the Planning Commission and will be a continued topic of discussion.

COMMISSION BUSINESS & COMMENTS

Election of Officers for 2017

- **Chair**
- **Vice Chair**
- **Zoning Board of Adjustment Hearing Officer**
- **ZBA Hearing Officer Alternate**

Commissioner Ray recommended that the election be postponed until a full slate of commissioners were present. **Commissioner Forrest** concurred.

Commissioner Molloy commented that traditionally the officers retain their positions for a period of two years.

Commissioner Ray asked if people that were interested in positions state there interest. **Commissioner Jersvig** said he would be honored to continue as Chair. **Commissioner Dowding** said she feels she serves at the pleasure of the Commissioners and is willing to continue. **Commissioner Forrest** is happy to continue on ZBA as is **Commissioner Roskie** to continue on the Title 18 Committee.

***Commissioner Ray** made a motion to continue the election of officers for 2017 until the next planning commission meeting; upon a second from **Commissioner Forrest** the motion was unanimously approved.*

APPROVAL OF THE MINUTES

***Commissioner Dowding** made a motion to approve the **December 12, 2016** minutes; upon a second from **Commissioner Forrest** the minutes were unanimously approved.*

CONSENT AGENDA

There were no items on the consent agenda.

REGULAR AGENDA

1. Historic Preservation Presentation

Jim Cox, member and former Chair of the Loveland Historic Presentation Commission (HPC), provided an overview of the City's historic preservation program. He provided two handouts, the brochure "Walk Historic Loveland" and "What are the Benefits and Responsibilities of Owning a Loveland Historic Landmark". Following the

presentation, a discussion ensued about how the Historic Preservation and the Planning Commission could work more closely together to discuss issues of mutual interest and concern, especially in regarding to the tearing down and replacement of homes within the areas surrounding downtown. The Planning Commission wants a clear understanding of the HRC guidelines and programs and would like to schedule a study session to further that understanding. A joint study session on historic preservation criteria will be scheduled and it was suggested that Mr. Greg George be invited to participate to explore any impact preservation may have on underlying zoning issues and the UDC.

Commissioner Jersvig called for a recess at 8:03 p.m.

Commissioner Jersvig called the meeting to order at 8:15 p.m.

REGULAR AGENDA, continued

2. Determine 2016 Accomplishments and 2017 Goals

Mr. Paulsen presented a draft of the 2016 accomplishments and proposed 2017 goals of the Planning Commission. This information will be presented at the annual Boards and Commissions Summit. The 2017 goals will also be used to guide Commission activities throughout the year.

Several Commissioners made suggestions for revisions. The finalization of accomplishments and goals document was tabled until the next meeting. Any suggestion in the meantime should be forwarded to Mr. Paulsen.

ADJOURNMENT

Commissioner Ray, made a motion to adjourn. Upon a second by **Commissioner Roskie**, the motion was unanimously adopted.

Commissioner Jersvig adjourned the meeting at 8:48 p.m.

Approved by: _____
Jeremy Jersvig, Planning Commission Chair

Linda Bersch, Interim Planning Commission Secretary.



Development Services Administration

410 E. 5th Street • Loveland, CO 80537
(970) 962-2523 • eplan-planning@cityofloveland.org
www.cityofloveland.org/DC

MEMORANDUM

January 23, 2017

To: Loveland Planning Commission

From: Greg George, Special Projects Manager

Subject: **Unified Development Code – Development Review Procedures (Second Working Draft) – January 23, 2017**

A. INTRODUCTION

This item is a public hearing on Task 2 – Simplified Procedures, which when the Unified Development Code (UDC) project is complete will become Chapter 2 of the UDC. The second working draft of Chapter 2 is included as **Attachment 1**. This second draft has not changed since the November 28th Planning Commission study session and the December 13th City Council study session.

The UDC project consists of six interrelated tasks and is scheduled for completion by the end of 2017. As work proceeds on each task, draft products from previous tasks will be revisited by the Planning Commission to determine if further revisions are necessary. In Task 6, the final draft products from Tasks 2 through 5, and other components of the existing codes, will be standardized and revised as necessary for integration into the UDC. The draft UDC will then be reviewed using the same process used for each of the preceding tasks.

B. RECOMMENDATION

At the conclusion of the public hearing, the Planning Commission will be asked to forward a recommendation to City Council on Task 2 – Simplified Procedures, Chapter 2 (second working draft). The following is a recommended motion for consideration.

Move to recommend that the Development Review Procedures (Second Working Draft) Chapter 2, dated January 23, 2017 be approved as the framework for reviewing development projects in the future and with the understanding that Chapter 2 will be revisited by the Planning Commission in Task 6 prior to becoming part of the UDC.

C. CITY COUNCIL STUDY SESSION

The Loveland City Council held a study session on December 13, 2016 to consider the recommendations from the UDC project team and concerns raised by the Planning Commission at the November 14th and November 28th study sessions. The December 13, 2016 City Council staff memo is included as **Attachment 2**.

The material provided in the Council packet included a summary of the following significant changes being recommended to the procedures for reviewing development applications. These changes are the same as reviewed by the Planning Commission on November 14th and November 28th.

1. **Sketch Subdivision Plat:** Instead of the current process which requires a surveyed plat and detailed public improvement construction plans, applicants for a subdivision plat would be given the option of submitting a *Sketch Plat* for initial review and approval. A *Sketch Plat* would depict the general layout of lots, streets, open space, bufferyards, stormwater detention, access to adjacent streets, etc. The *Sketch Plat* would provide the information necessary for substantive review while delaying the expense of preparing the final documents until the final plat application. The *Sketch Plat* materials would be utilized for neighborhood meetings or public hearing review when these actions are required.
2. **Sketch Site Development Plan:** Similar to the *Sketch Plat*, applicants would have the option of submitting a *Sketch Site Development Plan* prior to submitting a fully detailed *Site Development Plan*, including engineered public improvement construction plans.
3. **Design Approval:** Applicants could obtain approval of building architecture prior to submittal of a *Sketch* or *Final Site Development Plan*. This procedure would also be at the applicant's option.
4. **Inclusion of Tables:** Several tables are incorporated into this chapter. The tables provide clear and easy to find information, and eliminate the need for complex narrative descriptions. The information provided in these tables is currently scattered throughout the City's three existing development codes.
5. **Appeals:** The final *Appellate Body* for initial decisions by the Director would be the Planning Commission, with no further appeal to City Council. The final *Appellate Body* for initial decision by the Planning Commission would be City Council. Decisions by the final *Appellate Body* would be the final quasi-judicial decision of the City, appealable only to a court pursuant to the applicable Colorado Rules of Civil Procedure. Criteria set forth in the UDC (Division 2.03.06 Administrative Appeals) specifies the appeal process, including who has standing to appeal and what legal thresholds must be met for an appeal to be heard.
6. **Development Standards:** In later tasks (Tasks 3, 4 and 5), the project team will be developing revisions to existing development standards and new development standards to improve clarity and ensure consistent application. The primary purpose for developing revised and new standards is to ensure quality development and land use compatibility based on community-preferred standards.

- 7. Standardized Development Review Procedure:** The current *Special Review Use* process would be replaced with a more standardized and efficient procedural framework to provide more options for processing land use applications. In addition to *Use-by-Right*, three new options would be provided: *Limited Use*, *Adaptable Use* and *Conditional Use* (see **Attachment 3**). With the creation of new development standards, the goal would be to allow the Director to approve more projects, provided they comply with the new standards.
- a) Limited Use:** The Director would be authorized to approve *Limited Uses*, provided the project complies with all development standards. *Limited Uses* within each zoning district would be subject supplementary standards designed to mitigate any negative impacts of the use onto nearby properties or to the broader community. No neighborhood meeting or public notice would be required.
- b) Adaptable Use:** Uses designated as *Adaptable Uses* may require unforeseen mitigation measures to be compatible within a given location due to site or location-specific factors. When approving such uses, the Director would have the discretion to apply qualitative mitigation measures to such uses.
- The *Adaptable Use* process would provide the developer an opportunity to first work with City staff to ensure that the project complies with applicable development standards. Members of the neighborhood would receive notice, be provided with project information, and be given an opportunity to comment on the project. The goal for the developer would be to present a quality development, compatible with the neighborhoods, so the Director would have adequate justification for determining that no neighborhood meeting was required based on the nature of comments received from the neighborhood. If a neighborhood meeting was required, then the developer would have an opportunity to work with the neighborhood to satisfy their concerns to avoid an appeal. If an appeal was filed, then the project would be considered by the Planning Commission at a noticed public hearing. This process creates a significant incentive for developers to submit quality projects in the beginning.
- c) Conditional Use:** Uses that are designated as *Conditional Uses* within a zoning district may or may not be compatible with nearby uses, even when mitigation measures are implemented. Therefore, the Planning Commission would conduct a noticed public hearing on such uses to determine compatibility. The Commission would have the authority to apply qualitative impact-mitigation measures, and could approve or deny such projects. Depending on the nature of public comments, the Director may require a neighborhood meeting prior to the public hearing.
- 8. Threshold Review for Neighborhood Meetings:** To avoid unnecessary neighborhood meetings, particularly when there is very little or no interest in the project from members of the adjacent neighborhoods, the project team is proposing *Threshold Criteria* that the Director would apply in determining if a neighborhood meeting is required for an *Adaptable Use*. The *Threshold Criteria* is yet to be developed. The developer would be responsible for providing a summary of the
- 9. Public Notice Requirements:** The project team is proposing to simplify the process for mailed public notices by, with some exceptions, standardizing the notice distance to 250 feet. The

provisions specify that the notice distances for infill projects are to be reduced in half (125 feet from the project site perimeter) and gives the Director the discretion to expand the notice distances (by a factor of 2x up to 500') if the Director reasonably anticipates that due to unusual elements of the application there is a community interest broader than the required notice area.

D. CITY COUNCIL

Questions from City Council at the December 13th study session focused on three primary topics.

1. **Land Use Table:** There was interest in how the *Land Use Table* (see **Attachment 4**) would establish the framework for determining the public review process for each land use in each zoning district. The Councilors present felt comfortable with the recommended procedural framework, with the understanding that completion of the Land Use Table would be fully vetted by the Planning Commission and City Council as part of Task 5.
2. **Appeal Process:** There were questions about the appeal process and the concept of “one bite at the apple”—meaning, limiting appeals to only one hearing. After a general discussion, there seemed to be support for moving forward with the concept until the Land Use Table is developed in Task 5.
3. **Sketch Plat and Sketch Site Development Plan:** It appeared there was considerable support for the *Sketch Plat* and *Sketch Site Development Plan* process, particularly the notion that it would reduce the upfront cost to the developer and increase the developer’s willingness to make changes in the project in response to concerns by staff, the neighborhood, and/or Planning Commission.

At the conclusion of the study session, there was general consensus to move forward with the Development Review Procedures (Second Working Draft) Chapter 2 as the framework for reviewing development projects in the future.

E. ATTACHMENTS

1. Development Review Procedures (Second Working Draft)
2. December 13, 2016 City Council Staff Memorandum
3. Standardized Development Review Process
4. Sample Land Use Table
5. Powerpoint Slide Presentation
6. UDC Project Team and Committee Members

UNIFIED DEVELOPMENT CODE UPDATE

Development Review Procedures (Second Working Draft)

**Presented to:
Loveland Planning Commission**

January 23, 2017 Public Hearing

TABLE OF CONTENTS

	PAGE
Division 2.02.01 City Staff and Referral Agencies	2 of 33
Division 2.02.02 Elected and Appointed Officials	4 of 33
Division 2.03.01 Purpose and Application	6 of 33
Division 2.03.02 Required Development Approvals	7 of 33
Division 2.03.03 Standardized Development Review Procedures	13 of 33
Division 2.03.05 Required Notices	25 of 33
Division 2.03.06 Administrative Appeals	31 of 33

CHAPTER 2.02 DEVELOPMENT REVIEW BODIES

Division 2.02.01 City Staff and Referral Agencies

2.02.101 Director of Development Services

- A. **Generally.** The Director of Development Services ("Director") is the member of the City Staff who is ultimately responsible for processing an application to decision (in the case of administrative approvals) or making a recommendation to an approving body (in the case of public hearing approvals). The Director shall designate staff members to manage applications through the review process and be points of contact for applicants, and may also delegate review responsibilities to other members of the City Staff with relevant technical training or expertise, or, as appropriate, to consultants that are authorized by the City Council.
- B. **Duties and Responsibilities.** The Director shall allocate and supervise staff from the Development Services Department to administer this Code, including the following functions:
1. Coordinating and conducting concept review meetings.
 2. Coordinating and conducting various meetings with applicants and citizens relating to development review and planning activities.
 3. Receiving and logging applications for development approval.
 4. Keeping records of development applications, including materials and outcomes.
 5. Reviewing application materials and verifying that applications are complete.
 6. Communicating with applicants to inform them that their applications are complete or not complete; and if the applications are not complete, what items are required to complete the application.
 7. Managing the processing of applications according to Chapter 2.03, Review Procedures.
 8. Processing and reviewing all applications (or causing applications to be reviewed) and either deciding the applications or making a recommendation regarding how the application should be decided based on the record documents and the applicable provisions of this Code.
 9. Setting applications on agendas of the Planning Commission or City Council, as appropriate.
 10. Setting applications on agendas for the Zoning Board of Adjustment and other boards and commission as appropriate.
 11. Providing public notice (or verifying public notice) as required by this Code.
 12. Promptly issuing written approvals, permits, resolutions, or orders that reflect the substance of approvals granted pursuant to this Code.
 13. Maintaining the Zoning Map, including:
 - a. Updates to reflect rezoning;
 - b. Appropriate annotations to indicate adaptable use approvals;
 - c. Appropriate annotations to indicate limited use approvals; and
 - d. Resolution numbers to indicate conditional use approvals.
 14. Tracking the term of approvals, and keeping records of approvals that have expired.
 15. Enforcing the provisions of this Code and approvals granted hereunder.
 16. Making recommendations regarding amendments to this Code and to the Comprehensive Plan and other land use or strategic plans approved or adopted by the City.
 17. Developing or supervising the development of master plans, special area plans, or strategic plans, however titled, as directed by the City Council.

2.02.102 Referral Agencies

- A. **Generally.** The Director shall maintain a list of referral agencies, including but not limited to: special districts, fire protection districts, school districts, ditch or reservoir companies, irrigation districts, and utility providers that may be affected by land use and development within the City. The Director shall refer applications to affected referral agencies as required by this Code or, if not required by this Code, as the Director may determine appropriate
- B. **Referral Agency Review.** The applicant for development approval shall be responsible for the payment of review fees charged by referral agencies, if any.

Division 2.02.02 Elected and Appointed Officials

2.02.201 City Council

- A. **Powers.** The City Council shall have all powers conferred upon it by the City of Loveland Home Rule Charter.
- B. **Delegations.** The City Council delegates authority to the Director, the Planning Commission, and the Board of Adjustment and Appeals as provided in this Code.
- C. **Appointments.** The City Council shall have the power to appoint members of the Planning Commission, the Board of Adjustment and Appeals as provided in Article 10 of the City of Loveland Home Rule Charter.
- D. **Meetings and Procedures.** Meetings of the City Council shall be conducted as provided in Article 4 of the City of Loveland Home Rule Charter.
- E. **Decisions.** The City Council shall decide applications for:
 - 1. Code Text Amendments
 - 2. Rezoning
 - 3. Certificates of Designation
 - 4. Vacations of Existing Right-of-Way
 - 5. Vacation of Obsolete Subdivisions
 - 6. General Development Plan
 - 7. Creation of Vested Rights
 - 8. Extension of Vested Rights
 - 9. Administrative Appeals from decisions of the Planning Commission (except decisions by the Planning Commission on appeals from decisions of the Director)
 - 10. City Council shall also adopt the comprehensive plans and other plans for the physical development of the City.

2.02.202 Planning Commission

- A. **Generally.** There is established a Planning Commission consisting of nine members appointed by the City Council.
- B. **Powers and Duties.** The Planning Commission shall:
 - 1. Consider and decide the following types of applications:
 - a. Conditional Use
 - b. Height Exception
 - c. Oil and Gas Permit (Public Hearing)
 - d. Preliminary Development Plan
 - 2. The Planning Commission shall consider and recommend to the City Council approval, approval with conditions, or disapproval of the following types of applications:
 - a. Rezoning
 - b. Certificate of Designation
 - c. General Development Plan
 - d. Amendments to the Unified Development Code
 - 3. The Planning Commission shall decide appeals from final decisions of the Director.

4. The Planning Commission also shall consider and advise the City Council on all proposed changes to the Unified Development Code and recommend adoption of comprehensive plans for the physical development of the City, which plans may be adopted by resolution of the City Council, and perform such other duties as the City Council may by ordinance or resolution prescribe.
- C. **Qualifications for Membership.** All members of the Planning Commission shall be bona fide residents of the city of Loveland.
- D. **Selection of Membership.** Planning Commissioners shall be appointed by majority vote of a quorum of the City Council.
- E. **Term of Office.** The term of office for each member shall be three years.
- F. **Vacancies.** Vacancies shall be filled by majority vote of the City Council. The person appointed to fill a vacancy shall serve for the remainder of the original term, and may thereafter be re-appointed.
- G. **Order of Business.** The order of business at all regular meetings shall be established by the Planning Commission.
- H. **Regular Meetings.** Regular meetings of the Planning Commission shall be held in Council chambers, or other place designated by the Planning Commission Chairperson, in accordance with the schedule of meetings adopted by Council.
- I. **Special Meetings.** Special meetings shall be held upon the call of the chairperson or vice-chairperson or upon written request of two members of the Planning Commission. Notice of special meetings shall be given as much in advance as is reasonable under the circumstances requiring the meeting by notice to each of the members. Such notice shall set forth a time, place, date and purpose of the meeting.

2.02.203 Zoning Board of Adjustment

- A. **Generally.** The Zoning Board of Adjustment is hereby created and delegated the authority to grant variances to the regulations contained in this Title.
- B. **Powers and Duties.** The Zoning Board of Adjustment shall be empowered to grant variances from certain standards set forth in this Title according to the standards set out in [Section 2.05.303, Variances](#).
- C. **Membership.** The Zoning Board of Adjustment shall be composed of the members of the Planning Commission as it may be constituted from time to time.
- D. **Hearing Officer.** The Zoning Board of Adjustment may appoint a Zoning Hearing Officer from within the Board to conduct public hearings and make decisions on variances. The Hearing Officer may forward any matter on to the full Zoning Board of Adjustment.
- E. **Order of Business.** The order of business at all regular meetings shall be established by the Board of Adjustment and Appeals.
- F. **Regular Meetings.** Regular meetings of the Zoning Board of Adjustment shall be held in Council chambers, or other place designated by the Zoning Board of Adjustment Chairperson, in accordance with the schedule of meetings adopted by Council.
- G. **Special Meetings.** Special meetings shall be held upon the call of the chairperson or vice-chairperson or upon written request of two members of the Zoning Board of Adjustment. Notice of special meetings shall be given as much in advance as is reasonable under the circumstances requiring the meeting by notice to each of the members, personally served or left at their usual places of residence. Such notice shall set forth a time, place, date and purpose of the meeting.

Division 2.03.01 Purpose and Application

2.03.101 Purpose

The purpose of this Chapter is to set out a standardized process for development review and administrative appeals in the City.

2.03.102 Application

- A. **Generally.** All procedures for obtaining development approvals and for appealing decisions of the Director or the Planning Commission are set out in this Chapter.
- B. **Required Development Approvals.** [Division 2.03.02, Required Development Approvals](#), sets out the approvals and permits that may be required by the City for the use and development of real property. Section [2.03.202, Administrative and Public Hearing Development Approvals](#), sets out a comprehensive list of approvals and permits, along with their associated procedural requirements.
- C. **Standardized Development Review Procedures.** [Division 2.03.03 Standardized Development Review Procedures](#), sets out the standardized procedures for development review in the City.
- D. **Modifications and Corrections.** [Division 2.03.04, Modifications and Corrections](#), establishes the procedures to modify existing approvals and to correct scrivener's errors.
- E. **Required Notices.** [Division 2.03.05 Required Notices](#), details the notice requirements for each type of application that requires one or more public notices.
- F. **Administrative Appeals.** [Division 2.03.06 Administrative Appeals](#), sets out the process for appealing a decision of the Director or the Planning Commission.

Division 2.03.02 Required Development Approvals

2.03.201 Development Approval Required

Development approval is required for development within the City of Loveland unless specifically exempt from the application of this Code.

2.03.202 Administrative and Public Hearing Development Approvals

- A. **Generally.** Administrative development approvals are issued by the Director, the Floodplain Administrator or the City Engineer. Public hearing development approvals are granted by the Planning Commission, the Board of Adjustment and Appeals, the Floodplain Appeals Board, or the City Council after public hearing.
- B. **Approval Types.** Table 2.03.202, *Administrative and Public Hearing Development Approvals* sets out the development approvals that are required by this Code and whether they are approved administratively or after public hearing. Applications that can be appealed to a higher level decision body are identified with an asterisk *.

Table 2.03.202 Administrative and Public Hearing Development Approvals					
Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Zoning / Amendments					
Text Amendment	Amending the text of this Code	Yes	Yes	Planning Commission ("PC")	City Council ("CC")
Rezoning (Map Amendment)	Amending zoning district boundaries on the official zoning map	Yes	Yes	PC	CC
Zoning / Land Use					
Permitted Use	Establishment or material modification of a Permitted Use	No	No	NA	Director
Limited Use	Establishment or material modification of a Limited Use	No	No	NA	Director
Adaptable Use (also Major Home Occupation)*	Establishment or material modification of an Adaptable Use	Yes	Yes	NA	Director
Conditional Use*	Establishment or material modification of a Conditional Use	Yes	Yes	Director	PC

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Certificate of Designation	As provided by Colorado Statutes (e.g., hazardous waste disposal sites (see C.R.S. § 25-15-201, et seq.); hazardous waste incinerators (see C.R.S. § 25-15-501, et seq.); solid waste disposal site or facility (see C.R.S. § 30-20-100.5, et seq.); waste tire monofills (see C.R.S. § 30-20-1415))	Yes	Yes (including CDPHE)	PC	CC
Zoning / Development Permits and Approvals					
Master Sketch Plan	Phased development where site development plan is not submitted for all phases at one time	No	No	NA	Director
Sketch Site Development Plan	All development except agriculture, single-family detached residential, and duplex	No	No	NA	Director
Final Site Development Plan	All development except agriculture, single-family detached residential, and duplex, including final civil improvement drawings	No	No	NA	Director
Design Approval	Approval of architectural design in locations where architectural standards are applicable	No	No	NA	Director
Height Exception*	Approval of exceptions to the building height limitations of this Code	Yes	No	Director	PC
Setback Modification*	Approval of modifications to required setbacks	Yes	Yes, if modification affects easement holder	NA	Director
Oil and Gas Permit (Administrative)	Approval of oil and gas operations that involve surface use, pursuant to Chapter TBD	Yes	Yes	NA	Director
Oil and Gas Permit (Public Hearing)*	Approval of oil and gas operations that involve surface use, pursuant to Chapter TBD	Yes	Yes	Director	PC

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Sign Permit	Installation of sign, or modification of sign for which permit is required pursuant to Section TBD	No	No	NA	Director
Erosion and Sediment Control Permit	Approval of cutting, dredging, filling, excavating, or stockpiling more than TBD cubic yards of rock, soil, or other fill material, but not including such activities with regard to agricultural operations or maintenance of existing ditches, reservoirs, or constructed wetlands.	No	Discretionary	NA	City Engineer
Site Work Permit	Authorizes horizontal construction	No	Yes	NA	City Engineer
Subdivision / Plat					
Plat or Annexation Map Corrections	Correcting minor errors and omissions on a plat or annexation map	No	Discretionary	NA	Director
Simple Plat, Lot Merger, or Boundary Line Adjustment	Platting a single lot that is contiguous with the boundaries of a single parcel that is described by metes and bounds; removing lot lines from a plat in order to merge abutting lots into a single lot; or moving a lot line that is shown on a subdivision plat	No	Discretionary	NA	Director
Sketch Plat*	Preliminary approval of plat design, a prerequisite to approval of a subdivision plat	Yes	Yes	NA	Director
Subdivision Plat	Creation of one or more new lots	No	Discretionary	NA	Director
Vacation of Right-of-Way	Vacation of a right-of-way that was dedicated to the City by plat, deed, or other recorded instrument	Yes	Discretionary	Director	CC

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Termination of Required Private Easement*	Termination of a private easement that was required by a development approval and subsequently created by plat, deed, or other recorded instrument	Yes	Yes	NA	Director
Vacation of Required Obsolete Subdivision	Vacation of an obsolete subdivision as defined in Section TBD	Yes	Yes	Director	CC
Exceptions to Subdivision Requirements*	Approval of a subdivision plat that does not strictly comply with the applicable requirements of this Code	Yes	Yes	NA	City Engineer
Planned Unit Developments					
General Development Plan	Approval of zoning for a Planned Unit Development and general layout of a PUD project	Yes	Yes	PC	CC
Preliminary Development Plan*	Approval of land use and general patterns of development in a PUD project	Yes	Yes	Director	PC
Final Development Plan	Approval of specific development within a PUD project	No	Yes	NA	Director
Vested Rights					
Creation of Vested Rights	Vesting the right to implement a site specific development plan for a period of 3 years or more	See Sec. 2.01.411	Discretionary	Director	CC
Extension of Vested Rights	Extending a vested rights period	See Sec. 2.01.411	Discretionary	Director	CC
New PUD Process					
Zoning Document	Approval of land use zoning and general design of PUD, including a land plan, building and bulk standards and land use schedule	Yes	Yes	PC	CC
Concept Plan	Approval of a plan showing streets and zoning on adjacent properties and development areas, vehicular access and other features within the PUD	Yes	Yes	NA	Director

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Variances and Appeals					
Variance*	Obtaining relief from the strict application of Code requirements, except Chapter TBD	Yes	Discretionary	Director	ZBA
Administrative Appeal from Director's Decision	Appealing a decision of the Director	No	No	NA	PC
Administrative Appeal from Planning Commission Decision	Appealing a decision of the Planning Commission	No	No	NA	CC

2.03.203 Improvements Agreements

- A. **Generally.** Development approvals may include requirements for the provision of public improvements, drainage improvements, or landscaping to serve the proposed development or land on which development is to occur, or to mitigate the impacts of the development, pursuant to the requirements of this Code.
- B. **Public Improvements Determination.** The Director shall determine whether the dedication, acquisition, relocation, modification, improvement, installation or construction of public improvements, drainage improvements, or landscaping shall be required for a proposed development or property based on applicable standards.
- C. **Improvements Agreement Required.** If the provision of public improvements, drainage improvements, or landscaping is required, the applicant (and landowner, if different) shall be required to enter into an improvements agreement in a form approved by the City Attorney and executed by the City Manager.
- D. **Essential Terms.** Improvements agreements shall include the following essential terms:
 1. *Identification of Improvements.* The improvements agreement shall identify the public improvements, drainage improvements, and landscape improvements that are required.
 2. *Assurances.* The improvements agreement shall provide adequate assurances that:
 - a. The improvements will be constructed to the City's established standards in a timely manner; and
 - b. The improvements will be maintained, repaired, or replaced, as appropriate, during their applicable warranty periods.
 3. *Security.* The improvements agreement may require the applicant to submit a cash deposit, irrevocable letter of credit, or bond to provide appropriate security for the assurances in the agreement. The City may require that the security be provided to the City prior to and as a condition of the issuance of permits for construction of the proposed development.
 4. *Subordination of Liens.* Except as otherwise agreed by the City, all mortgagees shall be required to subordinate their liens and interest in the property to the covenants and the restrictions of the improvements agreement.

- E. **Phasing.** The improvements agreement may, if approved by the Director, authorize the installation, construction, or reconstruction of public improvements, drainage improvements, or landscaping to be carried out in phases. Any phase of development approved through an improvements agreement must be an integrated, self-contained project consisting of all improvements and landscaping necessary to serve the portion of property to be developed as part of such phase. The City may impose reasonable conditions on phasing in order to preserve the integrity of the development, or to protect the public health, safety and welfare of the community or adjacent properties.
- F. **Construction Plans.** Prior to issuance of any development approval or permit for which an improvements agreement is a prerequisite, construction plans and specifications must be submitted to the City for review and approval. The City-approved construction plans shall be used as the basis for the cost estimates that are used to calculate the amount of security that is required by the improvements agreement.
- G. **Early Building Permits.** The improvements agreement may authorize the issuance of building permits prior to installation, construction, or reconstruction of certain public improvements, drainage improvements, or landscaping (collectively, the "Improvements") provided the applicant demonstrates and the Director finds that:
1. Unanticipated difficulties beyond the applicant's control make it commercially impracticable to install the required improvements prior to the issuance of building permits, but it is reasonably probable that the Improvements will be installed within six months after the issuance of the building permits;
 2. Issuance of such building permits will not create a threat to public health, safety, or welfare;
 3. Prior to the issuance of any such building permits:
 - a. Adequate all-weather access to the construction site is provided for fire and emergency vehicles and approved by the Loveland Fire and Rescue Authority;
 - b. All underground electric lines and related equipment are installed, unless such installation is waived by the Loveland Water and Power Department;
 - c. Temporary erosion control measures are installed on the site in compliance with City standards;
 - d. Prior to the delivery of any combustible building materials to the construction site, adequate water supply for fire protection is provided to the construction site, and the water supply system is approved by the Loveland Water and Power Department and Loveland Fire and Rescue Authority;
 - e. The Director has verified that any other conditions the Director has determined to be necessary to avoid a threat to public health, safety, or welfare have been met; and
 - f. Financial security in a form satisfactory to the City, in the amount of 110 percent of the cost of installation of the Improvements that remain to be constructed at the time the building permits are issued has been provided to the City.
- H. **Temporary Certificates of Occupancy.** The Director may issue temporary certificates of occupancy prior to installation of all required improvements if the Director determines that issuance of such certificates of occupancy will not cause a threat to public health, safety or welfare.
- I. **Clear Certificates of Occupancy.** No inspections shall be made by the City for purposes of issuing a clear certificate of occupancy until all final improvements and other requirements imposed by the provisions of this Code or by the City at the time an annexation map or subdivision plat is approved have been installed or performed by the applicant in compliance with plans and specifications approved by the City engineer and as required by this Code or any other applicable ordinance or resolutions passed by the City.

Division 2.03.03 Standardized Development Review Procedures

2.03.301 Process Overview

- A. **Generally.** This Division sets out the steps in the standardized development review process. Some types of applications may involve additional or alternative procedures. Those applications, and their unique procedural attributes, are set out in [Division 2.07.06](#). Appeals are subject to [Division 2.03.06, Administrative Appeals](#), and not this Division.
- B. **Decisions by the Director.** Applications that are decided by the Director (see Section [2.03.202, Administrative and Public Hearing Development Approvals](#)), require the following process:
 - 1. Conceptual review meeting (Section [2.03.302](#))
 - 2. Threshold review (Section [2.03.304](#))
 - 3. Neighborhood meeting (if applicable, Section [2.03.305](#))
 - 4. Formal application (Section [2.03.306](#))
 - 5. Completeness review (Section [2.03.307](#))
 - 6. Stale applications (Section [2.03.308](#))
 - 7. Administrative review (Section [2.03.309](#))
 - 8. Agency referrals (if Section [2.03.202](#) requires agency referrals for the application type, or if Section [2.03.202](#) allows such referrals in the Director's discretion and the Director determines that they are necessary) (Section [2.03.311](#))
 - 9. Public comment (if Section [2.03.202](#) requires notice and comment for the application type, or if Section [2.03.202](#) allows such notice and comment in the Director's discretion and the Director determines that it is necessary) (Section [2.03.312](#))
 - 10. Effect of approval (Section [2.03.314](#))
 - 11. Effect of denial; successive applications (Section [2.03.316](#))
- C. **Decisions by the Planning Commission, Board of Adjustment and Appeals, and City Council.**
 - 1. Decisions by the Planning Commission, Board of Adjustment and Appeals, and City Council are subject to Sections [2.03.302](#) to [2.03.316](#), inclusive.
 - 2. If a decision requires a recommendation of the Planning Commission before a decision of the City Council, then the public hearing notice requirements of Section [2.03.310](#) and the hearing procedures requirements of Section [2.03.313](#) shall apply to the Planning Commission hearing and the City Council Hearing.

2.03.302 Conceptual Review Meeting

- A. **Generally.** A conceptual review meeting is required for all application types except sign permits and administrative appeals. The Director may establish and post a regular schedule for conceptual review meetings and for intake of required materials. The Director may make provisions for telephonic or video conferences.
- B. **Waiver.** The Director may waive the conceptual review meeting for good cause shown.
- C. **Purpose.** The purpose of the conceptual review meeting is threefold:
 - 1. To ensure the applicant is familiar with the procedural and substantive requirements of this Code;
 - 2. To coordinate with representatives from agencies and departments with an administrative interest in the development in order to discuss issues concerning the development early in the review process;
 - 3. To review the applicant's conceptual plan and to identify a list of application requirements.

- D. **Required Materials.** A conceptual review meeting shall be requested on a form approved by the Director, which may include requirements for supplemental materials (*e.g.*, preliminary plans) based on the type of application to which the conceptual review meeting relates. At a minimum, the request shall include sufficient supporting materials to explain:
1. The location of the proposed project;
 2. The proposed uses (in general terms);
 3. The proposed general arrangement of buildings, parking, access points, open spaces, and drainage facilities (including water quality and stormwater detention facilities);
 4. The relationship to existing development;
 5. Generally, the presence of natural resources, irrigation ditches or reservoirs, wetlands, open water, floodplains, and floodways on the subject property; and
 6. Such other preliminary materials that the applicant or the Director believes will be pertinent to the application.
- E. **Conceptual Review Meeting Report.** The Director shall provide written comments to the potential applicant at the conceptual review meeting.
- F. **Formal Application Timing.** The applicant shall have 90 days from the date of transmittal by the City to file an application.

2.03.303 Ex Parte Communications

- A. **Generally.** *Ex parte* communications are communications between applicants or others (including, but not limited to, City residents) and the zoning board of adjustment or its designated hearing officer, Planning Commissioners or City Council members about the merits of a pending application for development approval or appeal outside of a noticed public hearing at which the development approval or appeal will be heard. It is the policy and practice of the City to decide applications and appeals only on the merits presented in the application or petition for appeal, in on-record public comments, and at public hearings (if public hearings are required). *Ex parte* communications are not allowed.
- B. **Timing.**
1. **Zoning Board of Adjustment.** The prohibition on *ex parte* communications begins on the date that an appeal to the zoning board of adjustment or its designated hearing officer is filed pursuant to the requirements of this code and ends when the appeal period for a variance has expired.
 2. **Planning Commission.** The prohibition on *ex parte* communications begins on the date that an appeal to the Planning Commission is filed pursuant to the requirements of this code and ends when the appeal period for a development approval has expired.
 3. **City Council.** The prohibition on *ex parte* communications begins on the date that an appeal to City Council is filed pursuant to the requirements of this code and ends when the appeal period for a development approval has expired.
- C. **Inadvertent Communications.** It is not always possible to prevent *ex parte* communications. The zoning board of adjustment or its designated hearing officer, Planning Commissioners and City Council members shall not privately discuss the merits of a pending application or appeal. If a communication is received outside of the record (*e.g.*, it is not in the application, agency comments, or public comments, nor was it presented at a noticed public hearing) then the member shall disclose the communication, including the speaker and the substance of the communication, on the record of the public hearing before the application is heard. The decision-maker or recommending body must base its decision only on the evidence presented on the record. The contents of the *ex parte* communication shall not be considered part of the record for decision-making unless the information in the communication is also presented at the hearing (other than through the required disclosure).

2.03.304 Threshold Review

- A. **Generally.** Proposed development that meets certain thresholds shall be presented at a neighborhood meeting pursuant to Section 2.03.305, Neighborhood Meetings, before a formal application is filed.
- B. **Timing of Threshold Review.** The Director shall conduct a threshold review determination at the pre-submittal conference. If the proposed development is modified between the pre-submittal conference and formal application, the Director shall also conduct a threshold review at the applicant's request or upon formal application, whichever is earlier. If a neighborhood meeting is required, a formal application shall not be accepted until the neighborhood meeting is conducted.
- C. **Thresholds.** A neighborhood meeting shall be conducted pursuant to Section 2.03.305, Neighborhood Meetings, if:
 - 1. The subject property is located (TBD)
 - 2. The development involves (TBD)

Note: Thresholds could be based on use, intensity, density, adjacency, traffic impacts, etc.

2.03.305 Neighborhood Meetings

- A. **Generally.**
 - 1. If any threshold established by Section 2.03.304, Threshold Review, is met, then the applicant shall conduct a neighborhood meeting.
 - 2. The Director may also require a neighborhood meeting for the following types of applications if, based on written comments received from the public pursuant to Section 2.03.312, Public Comment, and the level of compliance with this Code that is demonstrated by the application, the Director determines that a neighborhood meeting would be a productive means to resolve outstanding issues of code compliance:
 - a. adaptable or conditional uses;
 - b. zoning map amendments;
 - c. certificates of designation;
 - d. height exceptions;
 - e. oil and gas permits;
 - f. sketch plat;
 - g. vacation of easement or right-of-way;
 - h. vacation of access easement;
 - i. exceptions to subdivision requirements;
 - j. general development plans; and
 - k. preliminary development plans.
 - 3. The Director may also require a neighborhood meeting for proposed text amendments that are likely to have a significant impact on particular neighborhoods.
- B. **Purposes and Intent.**
 - 1. *Purposes.* The purposes of the neighborhood meeting are:
 - a. To educate and inform City residents of pending development proposals in and near their neighborhood;
 - b. To encourage applicants to pursue early and effective communications with the affected residents in conjunction with applications, giving the applicant an opportunity to understand and attempt to mitigate any documentable adverse impact of the proposed project on the adjoining community;

- c. To provide residents and property owners a forum to work together to resolve potential concerns at an early stage of the process; and
 - d. To facilitate ongoing communication between the applicant, interested residents and property owners, the Director, and City officials throughout the application review process.
- 2. *Intent.* Neighborhood meetings are intended to be forums in which the applicant and City residents work together in good faith. However, they are not required to generate complete consensus on all aspects of the applications, nor to supplant or add to the standards of this Unified Development Code.
- C. **Notice.** Notice of the neighborhood meeting shall be prepared by the City per the requirements of Division 2.03.06, Required Notices.
- D. **Conduct of Meetings.**
 - 1. *Meeting Plan.* Neighborhood meetings shall be conducted according to a meeting plan approved by the Director, and shall be attended by a City staff member.
 - 2. *Sign-In Sheet.* Participants in the meeting shall be invited to provide contact information on a sign-in sheet, and shall be notified that signing in will give them the opportunity to provide formal comments on the application at a later date.
- E. **Community Participation Report.** If a neighborhood meeting is required, the applicant shall include a written Community Participation Report on the results of the neighborhood meeting with the formal application. At a minimum, the Community Participation Report shall include the following information:
 - 1. Dates and locations of all meetings where residents were invited to discuss the applicant's proposal;
 - 2. Copies of the sign-in sheets;
 - 3. A summary of concerns, issues and problems expressed by participants; and
 - 4. A summary of:
 - a. How the applicant has addressed identified issues; and
 - b. Issues that cannot or should not be addressed, and why those issues cannot or should not be addressed.

2.03.306 Formal Application

- A. **Generally.** Every application for development approval required by this Code shall be submitted on a form approved by the Director, along with the corresponding development review fee. Applications shall include electronic versions of application forms and all attachments in a format approved by the Director.
- B. **Forms.** The Director shall promulgate and periodically revise forms for each type of application required by this Code. The specific information requirements for each application shall have the purpose of facilitating:
 - 1. The administration of the development review process;
 - 2. The evaluation of the applications for compliance with the standards of this Code; and
 - 3. Efficient and appropriate record-keeping.
- C. **Waiver of Application Requirements.** The Director may waive specific submittal requirements, except application fees, if the Director determines that such requirements are unnecessary for the processing of the application for which the waiver is requested. However, if the Director subsequently finds that such information is pertinent to the evaluation of compliance with the standards of this Code, the Director may require the applicant to supplement the application.

- D. **Schedule.** The Director is authorized, but not required, to establish regular intake days for any or all classifications of applications for development approval, except sign permits and appeals.

2.03.307 Completeness Review

- A. **Generally.** Within three business days after an application is submitted, the Director shall review the application to verify that it is complete.
- B. **Complete Applications.**
 - 1. A complete application is an application that includes:
 - a. All of the information requested on the application form (except any items waived by the Director);
 - b. All supporting documents required by the application form (except any items waived by the Director);
 - c. Verification that there are no unpaid fines or delinquent property taxes or special assessments related to the subject property;
 - d. All supporting documents requested by the Director as a result of the Conceptual Review meeting; and
 - 2. Complete applications shall be processed according to the applicable procedures of this Code.
- C. **Incomplete Applications.**
 - 1. Incomplete applications shall be returned to the applicant with a written explanation that describes in general terms the materials that must be submitted in order to complete the application.
 - 2. Incomplete applications are not considered filed.
- D. **Application Filing Fee.** The applicable application filing fee shall be paid prior to the application being accepted for processing.

2.03.308 Stale Applications

- A. **Generally.** Applications for development approval shall be diligently pursued by the applicant. This section is intended to extinguish applications that become stale due to inaction by the applicant.
- B. **Expiration of Stale Applications.** When an action by the applicant is required for further processing of an application (for example, if revisions are requested after agency referrals), the application shall become void six months after the date that the action is requested if the applicant either fails to take action or fails to request an extension of time pursuant to subsection C., below.
- C. **Extension of Time.** The Director may extend the time for expiration of an application by up to six additional months upon written request of the applicant before the end of the period set out in subsection B., above.

2.03.309 Administrative Review

- A. **Generally.** Upon determination that an application is complete, the Director shall cause the application to be reviewed for technical compliance with all applicable requirements of this Code.
- B. **Referrals.** The Director shall refer applications to referral agencies pursuant to [Section 2.03.311 Agency Referrals](#), when such referral is required by this Code. The Director may refer any application to one or more referral agencies if the Director determines that the agency will be affected by the application and the agency's expertise will be helpful to the review of the application.
- C. **Notice and Comment.** If the application type requires public notice and comment, the Director shall provide notice as required by [Division 2.03.05 Required Notices](#).
- D. **Recommended Revisions.**
 - 1. After the referral period and the notice and comment period, as applicable, and upon completion of the Director's review, the Director shall provide to the applicant the comments from City staff,

and if applicable, referral agencies or the public. The applicant shall respond to the comments by either revising the application materials or by providing a response that describes why revisions are not necessary.

2. The Director may refer a revised application or response to comments to referral agencies again if changes substantially affect the interests of the agency in ways not anticipated by the agency's original comments (or lack thereof), or if the response requires the agency's technical expertise for adequate review.
 3. The resubmittal shall not require an application fee unless both of the following conditions are met:
 - a. The revisions are clearly inappropriate or incomplete; and
 - b. Repeated failure to address comments requires more than three rounds of revisions.
- E. **Administrative Decision or Recommendation.** Promptly after submittal of an application that appropriately addresses comments pursuant to subsection D., above, or promptly after the Director determines that no revisions to an original application are necessary:
1. If the application is for an administrative development approval, the Director shall approve, approve with conditions, or deny the application, as appropriate.
 2. If the application is for an administrative development approval for which public notice is required, the Director shall issue notice of the decision (see Section [2.03.503, Specific Requirements by Notice Type](#)).
 3. If the application is for a public hearing development approval, the Director shall make a recommendation regarding the application and forward the recommendation to the next body that will consider it for further recommendation or approval. The recommendation shall include the comments of the referral agencies and the public, if such comments are provided.
- F. **Decision on Sign Permits.** The Director shall approve or deny a sign permit within three business days after it is determined to be complete pursuant to Section [2.03.307, Completeness Review](#). If the Director fails to timely decide the sign permit, it shall be deemed approved. Denial of a sign permit shall be in writing, which shall include the reasons for the denial.

2.03.310 Public Hearing Notice and Schedule

- A. **Generally.** For applications that require public hearings, when administrative review pursuant to Section [2.03.309 Administrative Review](#), is complete, the Director shall coordinate with the applicant to cause notice to be issued according to the requirements of [Division 2.03.05 Required Notices](#), and set the application on the next available agenda of the next body that will consider the application, consistent with the legal requirements for public notice.
- B. **Coordination with Decision-Making Bodies.** The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings.
- C. **Notice to Applicant.** The Director shall notify the applicant regarding the time and place of public hearings.

2.03.311 Agency Referrals

- A. **Generally.** As part of the review process, referral agencies may be notified and provided the opportunity to comment on the application.
- B. **Review Fees.** Referral agencies may charge a fee or require reimbursement for their review. The applicant shall be responsible for the payment of agency review fees.
- C. **Referral Period.**

1. The referral period is 21 days, which commences upon delivery of the application and any applicable review fee to the referral agency.
 2. Failure of an agency to respond within the prescribed time period (or extended period) shall indicate consent by that agency to the contents of the application.
- D. **Extension of Referral Period.** Upon written request by the applicant or referral agency, the Director may extend the referral period or suspend the development review process in order to allow time for the applicant and the referral agency to resolve conflicts.

2.03.312 Public Comment

Certain administrative review procedures (*e.g.*, adaptable use review) require a public notice and comment period. During the public notice and comment period, the Director shall make application materials available at reasonable times for inspection, and shall accept written comments from the public regarding the application's compliance with this Code. The Director shall not consider public comments that are not pertinent to the evaluation of whether the application complies with the requirements of this Code.

2.03.313 Hearing Procedures

- A. **Generally.** All public hearing development approvals that require a public hearing before the Planning Commission, Zoning Board of Adjustment, or City Council are subject to the procedural requirements of this Section and the applicable rules of the body conducting the hearing.
- B. **Hearing Procedures.** The Planning Commission, Zoning Board of Adjustment, and City Council shall adopt rules of procedure for the conduct of public hearings. The following general procedures shall be reflected in the adopted rules of procedure:
1. Any person may appear at a public hearing, submit evidence, and be heard. Persons (other than the applicant) who seek party status shall provide written evidence regarding why such status should be recognized.
 2. If a speaker represents an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the group in regard to the matter under consideration.
 3. Persons appearing at a public hearing shall identify themselves and state their address and similar information about any organization they represent.
 4. Citizens, applicants, and the City shall have the right to present expert witnesses.
- C. **Continuances or Withdrawals.**
1. Requests for continuance may be granted at the discretion of the body holding the public hearing. If granted, the applicant shall pay all additional costs associated with the rescheduling of the hearing.
 2. Any application may be withdrawn, either in writing or on the record during the hearing, provided that the application is withdrawn before the vote on the recommendation or decision.
- D. **Decision or Recommendation.**
1. If the hearing is before the Planning Commission, the Planning Commission shall:
 - a. If the Planning Commission is to decide the application according to [Section 2.03.202, Administrative and Public Hearing Development Approvals](#):
 1. Approve the application;
 2. Approve the application with conditions;
 3. Deny the application; or
 4. Continue the hearing on the application; or

- b. If the Planning Commission is to make a recommendation on the application according to Section [2.03.202, Administrative and Public Hearing Development Approvals](#):
 1. Make a corresponding recommendation to the City Council on the application; or
 2. Continue the hearing on the application.
 2. If the hearing is before the Zoning Board of Adjustment the Board shall:
 - a. Approve the application;
 - b. Approve the application with conditions;
 - c. Deny the application; or
 - d. Continue the hearing on the application.
 3. If the hearing is before the City Council, the City Council shall:
 - a. Approve the application;
 - b. Approve the application with conditions;
 - c. Deny the application;
 - d. Continue the hearing on the application; or
 - e. Refer the application back to the Planning Commission for further review and recommendation if the Planning Commission previously considered the application.

2.03.314 Effect of Approvals

- A. **Generally.** The development approvals set out in Section [2.03.202, Administrative and Public Hearing Development Approvals](#), shall have the effects set out in this Section.

[THIS SECTION WILL BE COMPLETED AFTER DISCUSSION WITH STAFF REGARDING DURATION OF APPROVALS]

2.03.315 Vested Rights

- A. **Purpose.** The purpose of this Section is to provide procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended.
- B. **Vested Property Right Created.**
 1. A vested property right shall be deemed to have been created only upon the approval of a site specific development plan in accordance with this Section.
 2. Any approval of a site specific development plan, or amendment to an existing site specific development plan, that creates vested property rights shall be adopted by ordinance as a legislative act and shall be subject to referendum. When creating a vested property right, City Council may expressly exempt, in whole or in part, administrative amendments to a site specific development plan from additional review and approval by City Council under this Section.
 3. The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and which are applicable to all property subject to land use regulation by the City, including but not limited to the regulations concerning uniform building codes, uniform design standards, regulations concerning subdivision improvements and right-of-way dedications, and regulations establishing requirements and specifications for any public improvements.
 4. The establishment of a vested property right shall not preclude the application of any legislatively adopted fees which are general in nature, uniform in character and applicable to all properties or a similarly situated class of properties.

5. The City may approve a site specific development plan subject to such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare of the City and its residents.
 6. Any site specific development plan for a multiple-phase development may have separate vesting periods created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the City Council. Such review shall include but not be limited to whether the landowner or developer is in compliance with its obligations to the City, including but not limited to the site specific development plan, the improvements agreement and any other agreements between the landowner and the City, as they may have been amended from time to time.
- C. **Notice and Hearing.** Consideration of a site specific development plan for creation of vested property rights must be preceded by the applicable notice and public hearing in compliance with TBD.
- D. **Notice of Approval.**
1. Each document constituting a site specific development plan shall contain the following language: "Approval of this plan or agreement constitutes a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, and Section 2.03.315 of the Loveland Unified Development Code as amended." The failure of the document constituting a site specific development plan to contain the language specified this subsection shall invalidate and void the creation of the vested property right.
 2. A notice stating that a vested property right has been created shall be published once by the City in a newspaper of general circulation in the City not more than 14 days after final adoption of the ordinance approving the site specific development plan. The notice shall include the following information:
 - a. A statement advising the public of the site specific development plan approval, including the name of the project and general location of the specific property or development parcels affected;
 - b. A statement that a vested property right has been created in accordance with Article 68 of Title 24, Colorado Revised Statutes, and Section 2.03.315 of the Loveland Unified Development Code.
- E. **Duration of Vested Right.**
1. *Generally.* A property right vested pursuant to this Section shall remain vested for a period of three years.
 2. *Extended Vesting Periods.* The City Council, in its legislative discretion, may approve an initial vesting period that is longer than three years, in consideration of the following factors:
 - a. The size and phasing of the development, and specifically but not limited to, whether the development can be reasonably completed within three years;
 - b. Economic cycles (including, local, regional, and state economic cycles, and national economic cycles);
 - c. Market conditions, and specifically but not limited to, absorption rates for leasing and sales of similar development projects;
 - d. Consistency with the City of Loveland Comprehensive Plan and other adopted plans;
 - e. Proposed public amenities and benefits that enhance the project and the overall attractiveness of the community, including the degree to which such public amenities and benefits are defined in terms of design, timeframe, and phasing with development;
 - f. Projected public financial benefits or costs anticipated to result from the development, including the timeframe for realization by the City or other public entities and potential costs

for operation and maintenance of any new public amenities or infrastructure dedicated to the City or other public entities;

- g. The breadth and scope of the requested vested property right, including but not limited to, the extent to which such vested property right restricts the City's ability to apply future regulations for the purpose of providing public infrastructure, public services, or public facilities and for the purpose of meeting evolving community needs;
 - h. Any proposed modifications to previously approved vested property rights to address changed conditions within the City, consistency with the Comprehensive Plan and other community plans, or performance of previously approved site specific development plans; and
 - i. Any other factors deemed relevant to the City Council.
- F. **Extension of Vested Property Rights.** A landowner may request an extension of vested property rights by submitting an application for extension of vested property rights at least 120 days prior to the expiration of the period of vested property rights. The extension request shall be processed in accordance with the procedural requirements of this Chapter, including but not limited to notice, public hearing, adoption by ordinance, and post-approval publication. The criteria in subsection E., above, shall be considered by City Council when determining whether to grant an extension to a vested property right.
- G. **Forfeiture of Vested Property Rights.**
 - 1. Failure to abide by the terms and conditions of a site specific development plan may result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.
 - 2. The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the City Council stating the grounds therefor.
 - 3. No vested property right shall be deemed forfeited until after notice and a public hearing. Notice shall be provided at least 30 days prior to the date of the public hearing, by publishing notice in a newspaper of general circulation in the City of Loveland and by mailing notice to the property owner(s), sent to the address of record according the County Assessor's records via first class United States mail. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner(s).
 - 4. At the hearing, the City Council shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a site specific development plan. The City Council may continue the public hearing to allow additional evidence to be presented.
 - 5. If City Council finds a failure to abide by the terms and conditions of an approved site specific development plan, the City Council may take action by ordinance to declare the vested property rights forfeited. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way, or other lands or easements previously dedicated or conveyed to the City or other public entities pursuant to the terms of a site specific development plan. Upon forfeiture of vested property rights, the site specific development plan shall be subject to all zoning, land use, and general regulations in effect at the time of forfeiture and as such may be amended from time to time thereafter.

2.03.316 Effect of Denial; Successive Applications

- A. **Generally.** It is the policy of the City not to allow successive applications for the same development approval after an application is denied. The limitations of this Section limit the consideration of successive applications.

- B. **Minimum Interval Between Submittal of Substantially Similar Applications.** If an application is denied, the City shall not accept any application that is substantially similar to the denied application for a period of 12 months, unless:
1. After the application is denied, the City amends the applicable provisions in this Code in a manner that could allow for approval of the application; or
 2. The Planning Commission waives the minimum interval requirement of this Section for good cause shown.

Division 2.03.05 Required Notices

2.03.501 Required Notice by Application Type

Public notice of pending administrative decisions or scheduled hearings shall be provided as set out in Table 2.03.501, *Notice Requirements by Application Type*.

Table 2.03.501 Notice Requirements by Application Type				
Approval Type	Notice Type			
	Published	Posted	Mailed	Internet
Zoning / Amendments				
Text Amendment	✓	-	-	✓
Rezoning (Map Amendment)	✓	✓	✓	✓
Zoning / Land Use				
Permitted Use	-	-	-	-
Limited Use	-	-	-	-
Adaptable Use (also Major Home Occupation)	-	✓	✓	✓
Conditional Use	-	✓	✓	✓
Certificate of Designation	✓	✓	✓	✓
Zoning / Development Permits and Approvals				
Master Sketch Plan	-	-	-	-
Site Development Plan	-	-	-	-
Design Approval	-	-	-	-
Height Exception	-	✓	✓	✓
Setback Modifications	-	-	✓	✓
Grading Permit	-	-	-	-
Oil and Gas Permit (Administrative)	-	✓	✓	✓
Oil and Gas Permit (Public Hearing)	-	✓	✓	✓
Subdivision / Plat				
Plat Corrections	-	-	-	-
Sketch Plat for Simple Plat, Lot Merger, Boundary Line Adjustment	-	-	-	-
Sketch Plat for Subdivision Plat	-	✓	✓	✓
Subdivision Plat	-	-	-	-
Vacation of City Right-of-Way or Easement	✓	✓	-	✓
Termination of Required Private Access Easement			✓	✓
Vacation of Obsolete Subdivision	✓	✓	✓	✓
Exceptions to Subdivision Requirements	-	✓	✓	✓
Planned Unit Developments				
General Development Plan		✓	✓	✓

Approval Type	Notice Type			
	Published	Posted	Mailed	Internet
Preliminary Development Plan		✓	✓	✓
Final Development Plan		-	-	-
Vested Rights				
Creation of Vested Rights	See Sec. 2.03.315	-	-	✓
Extension of Vested Rights	See Sec. 2.03.315	-	-	✓
Variances and Appeals				
Variance	-	✓	✓	✓
Administrative Appeal from Director's Decision	-	-	✓	✓
Administrative Appeal from Planning Commission Decision	-	-	✓	✓

2.03.502 Contents of Public Notice

- A. **Generally.** Table 2.03.502, *Information Requirements by Application Type*, sets out the information that is required for each type of required notice. Information requirements for appeal notices are set out in subsection B., below, and information requirements for vested rights notices are set out in subsection C., below.

Table 2.03.502 Information Requirements by Application Type				
Required Information	Notice Type			
	Published	Posted	Mailed	Internet
Application Information				
The application type(s) for which notice is provided	✓	✓	✓	✓
Case number	✓	✓	✓	✓
Project name	✓	✓	✓	✓
Vicinity map identifying the site with respect to major cross-streets and community landmarks	✓	-	✓	✓
Address of the subject property	✓	-	✓	✓
Legal description of subject property	✓	-	✓	✓
Statement that legal description of subject property is on file with current planning division	-	-	-	-
Applicant name	✓	-	✓	✓
Project Description				
Existing zoning (and proposed zoning, if different)	✓	-	✓	✓
Summary of proposed development, including subject matter of application	✓	-	✓	✓
Contact Information				
Primary contact (applicant or applicant's representative) (name, company name, phone number, email address)	-	-	✓	✓

Required Information	Notice Type			
	Published	Posted	Mailed	Internet
Contact Information (cont.)				
Secondary contact (current planning division) (reviewing planner name, phone number, email address)	✓	✓	✓	✓
URL where additional project information is provided	✓	✓	✓	✓
Additional Contents for Public Hearing Notices				
Time, date, and location of public hearing	✓	✓	✓	✓
A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the current planning division, and that the right to appeal an administrative decision may be limited by Division 2.03.06 , Administrative Appeals, Loveland Unified Development Code	✓	-	✓	✓
Additional Contents for Administrative Decision Notices				
Deadline for public comments	NA	✓	✓	✓
Earliest date for administrative decision on application	NA	-	✓	✓
A statement that the right to appeal an administrative decision may be limited by Division 2.03.06 , Administrative Appeals, Loveland Unified Development Code	NA	✓	✓	✓

- B. **Appeal Notices.** Notices of a pending appeal must include a copy of the petition for appeal and a date, time, and location for the appeal hearing, a copy of the rules of procedure for the Appellate Body. Such notices must be mailed to the applicant (if different from the appellant), the appellant, any person or entity that has applied for party status, and by internet posting.
- C. **Vested Rights Notices.** Notice of a decision to grant vested rights shall be published in accordance with the requirements of C.R.S. § 24-68-101, as it may be amended from time to time.

2.03.503 Specific Requirements by Notice Type

A. Mailed Notice.

1. *Certified Mailing List.* The applicant shall submit a certified mailing list to the Director, including the names and addresses of all surface owners of record of all properties within the Notice Area described in Table 2.03.503, Notice Area, as may be modified pursuant to subsection A.3., below. The list shall be compiled from the names and addresses that appear in the records of the Larimer County Assessor not more than 30 days before the date the list is submitted to the Director.
2. *Method of Mailing.* Mailed notice shall be mailed first-class, postage pre-paid (at the applicant's expense), to all property owners on the certified mailing list.
3. *Modification of Notice Area.*
 - a. Subject Property Adjacent to Lake, Golf Course, or Park.
 1. In general, if the subject property abuts a lake, golf course, or park (including properties that are separated from the lake, golf course, or park by an undevelopable parcel of land

up to 50 feet in width, the notice area shall be doubled in the direction of the lake, golf course, or park.

2. The Director may expand the required notice area to include up to all properties that abut the same lake, golf course, or park if the Director reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of the other properties beyond the distance specified in subsection A.3.a.1., above.
- b. Reduction in Notice Area for Infill Projects. Subject to subsection A.3.c., below, the distances in Table 2.03.503, Notice Area, shall be reduced by 50 percent for applications related to infill projects (except for oil and gas permits and variances) that are less than five acres in area. For the purposes of this provision, a project is an "infill project" if it is adjacent, on at least eighty percent of its boundary, to properties within the existing City limits.
- c. Expansion of Notice Area. The distances in Table 2.03.503, Notice Area, may be expanded up to twice the specified distance if the Director reasonably anticipates that due to unusual elements of the application, material interest or concern regarding the application from community members beyond the required distance is probable. The reduction in notification area as described in subsection A.3.b., above, shall not apply when there is an expansion of the Notice Area pursuant to this provision.
- d. Notice to Applicant Regarding Expanded Notice Area. The Director shall notify the applicant in writing of any determination to expand the required notification area, including the reasons for the expansion, at least 7 days prior to the deadline for postmarking the notice as set forth in subsection A.4., below.
4. *Deadlines.* Mailed notices shall be postmarked not later than:
 - a. 21 days before an administrative decision for which notice and comment is required; or
 - b. 15 days before a public hearing or appeal.
5. *Affidavit of Compliance.* An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the Director prior to the decision or public hearing to which the notice relates. For mailed notices of public hearings, failure to provide the affidavit of compliance shall result in continuation of the public hearing.

Table 2.03.503 Notice Area ^{1, 2}	
Approval Type	Notice Distance
Zoning / Amendments	
Rezoning (Map Amendment)	250 ft.
Zoning / Land Use	
Adaptable Use (also Major Home Occupation)	250 ft. ³
Conditional Use	250 ft.
Certificate of Designation	2,000 ft.
Zoning / Development Permits and Approvals	
Height Exception	250 ft.
Setback Modifications	Abutting property closest to modified setback
Oil and Gas Permit (Administrative)	2,000 ft. ⁴
Oil and Gas Permit (Public Hearing)	2,000 ft. ⁴

Approval Type	Notice Distance
Subdivision / Plat	
Sketch Plat for Subdivision Plat	250 ft.
Vacation of Right-of-Way	250 ft.
Vacation of Access Easement	250 ft.
Vacation of Obsolete Subdivision	250 ft.
Exceptions to Subdivision Requirements	250 ft.
Planned Unit Developments	
General Development Plan	250 ft.
Preliminary Development Plan	250 ft.
Final Development Plan	250 ft.
Variances and Appeals	
Variance	250 ft.
Administrative Appeal from Director's Decision	same as original decision
Administrative Appeal from Planning Commission Decision	same as original decision
Comprehensive Plan	
Amendments to Future Land Use Map	250 ft.

B. Additional Requirements for Published Notice.

1. *Generally.* Published notice shall be published at the applicant's expense in a newspaper of general circulation in the City that is published not less frequently than weekly.
2. *Certification of Notice.* The applicant shall provide certification of notice from the newspaper prior to the public hearing or decision for which published notice is required. Failure to provide the certification of notice shall result in continuation of the public hearing.

C. Posting Requirements.

1. *Signs to be Posted by Applicant.* Posted notice shall be provided on signs provided by the applicant at the applicant's expense. It is the applicant's responsibility to post the sign(s) and ensure that they remain in place from the date of posting to the date of the decision or hearing to which they relate.
2. *Minimum Requirements.* Posted notice shall be provided with one sign per 600 feet of frontage or fraction thereof along each frontage of the subject property. Such notice shall be printed on wood, metal, or coroplast material, or other comparable material approved by the Director, and shall be not less than 8 sf. in area. Signs shall be located so that they are clearly visible from the abutting street.
3. *Deadline for Posting.* Notices shall be posted not less than 21 days before the decision; or 15 days before the public hearing to which the notices relate.
4. *Affidavit of Compliance.* An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the Director prior to the decision or public hearing to which the notice relates. For posted notices of public hearings, failure to provide the affidavit of compliance shall result in continuation of the public hearing.

- D. Internet Requirements.** The City shall create and maintain web pages upon which Director shall provide timely notice of applications and decisions for which Internet notice is required. Such internet

notice shall provide, at a minimum, a way for interested persons to request an opportunity to review the application materials; and may provide for electronic access to the application materials.

2.03.504 Mineral Estate Notices

The notification of mineral estate owners of the property which is the subject of a public hearing shall be given by the applicant at least 30 days prior to the public hearing in accordance with the requirements of the Colorado Notification of Surface Development Act, C.R.S. 24-65.5-101 *et seq.* (the "Act"). An affidavit of the applicant's compliance with such requirements shall be provided to the Director prior to the public hearing for which the notice was given and shall meet the provisions of the Act.

Division 2.03.06 Administrative Appeals

2.03.601 Purpose

The purpose of administrative appeals is to provide an opportunity for affected parties to seek review of a final decision of the Director or Planning Commission (the "Decision Below") to ensure that it is correct.

2.03.602 Appellate Body

Appeals shall be heard by the Planning Commission or the City Council. The Planning Commission shall hear appeals from final decisions of the Director. The City Council shall hear appeals from final decisions of the Planning Commission, except that the City Council shall not hear appeals of decisions made in the Planning Commission's role as an appellate body.

2.03.603 Party Status Required

- A. **Generally.** Appeals may be brought only by parties to the Decision Below.
- B. **Qualifications.** A person or entity is a "party" if the person is:
 - 1. The applicant;
 - 2. An abutting property owner;
 - 3. A property owner who received notice of the pending decision and timely provided written comments to the Director; or
 - 4. A property owner who received notice of public hearing and either participated in the public hearing or provided written comments to the Director at or before the public hearing.

2.03.604 Initiation of Appeal

- A. **Generally.** An administrative appeal is initiated by filing a petition, along with the required fee, with the Director.
- B. **Contents of Petition.** The petition for appeal shall include all of the following information:
 - 1. The name, address, email address; and telephone number of the appellant.
 - 2. The case number of the Decision Below.
 - 3. The date of the Decision Below.
 - 4. The reasons why the petitioner should be granted party status pursuant to Section [2.03.603 Party Status Required](#).
 - 5. A short statement regarding how the Decision Below did not conform to the applicable requirements of this Code. The statement shall refer to the specific section numbers upon which the appellant relies, and describe how the decision did not conform to the referenced Code sections.
 - 6. The petition for administrative appeal shall be filed within ten (10) calendar days after the Decision Below.

2.03.605 Threshold Review

- A. **Referral to City Attorney.** The Director shall promptly refer all petitions for appeal to the City Attorney for a determination of:
 - 1. Whether the petitioner has party status pursuant to Section [2.03.603 Party Status Required](#); and
 - 2. Whether the petitioner has provided sufficient detail in the petition to put the City on notice as to the legal basis of the appeal.

B. Threshold Findings.

1. If the City Attorney finds that the petitioner does not have party status or that the petition lacks the required specificity, then the appeal shall be summarily denied, and the City Attorney shall notify the applicant of the findings made as the basis for denial.
2. If the City Attorney finds that the petitioner has party status and that the petition includes the required level of specificity, then the City Attorney shall refer the application back to the Director, who shall promptly issue the required notices and place the item on the agenda of the Planning Commission or City Council, as appropriate, for the meeting that is set out in the notice.

- C. Effect of Threshold Decision.** Decisions of the City Attorney regarding threshold review are not subject to review under this [Division 2.03.06 Administrative Appeals](#).

2.03.606 Standards for Review

Appeals are decided according to the same standards that applied to the Decision Below.

2.03.607 Scope of Review

- A. Generally.** The scope of appellate review is limited to the issues raised in the petition. Issues that are not described or obviously implied by the petition will not be considered on appeal.
- B. New Evidence.** New evidence shall not be introduced on appeal.

2.03.608 Decision

- A. Generally.** Upon review of the record evidence in light of the arguments advanced on appeal, the Appellate Body shall determine whether the Decision Below was correct based on the evidence presented to the original decision-maker and the applicable Code provisions.
- B. Nature of Relief on Appeal.**
1. If the Decision Below was incorrect, the Appellate Body shall reverse and correct the decision below, and approve the original application, approve the original application with appropriate conditions, or deny the original application.
 2. If the Decision Below was correct, the Appellate Body shall affirm it.
- C. Decisions Reduced to Writing.** The decision of the Appellate Body shall be promptly reduced to writing and shall include findings of fact and conclusions of law. The written decision shall be reviewed and executed by a member of the Appellate Body (as appropriate) who is designated by the members who cast votes in the majority.
- D. Further Appeal.** The decision of the Appellate Body is a final quasi-judicial decision of the City that may be appealed to a court pursuant to the applicable Colorado Rules of Civil Procedure. The date of execution of the written decision shall be considered the date the administrative appeal was adjudicated.



DEVELOPMENT SERVICES DEPARTMENT

500 E 3rd Street • Loveland, CO 80537
(970) 962-2000 • TDD (970) 962-2620
www.cityofloveland.org

MEMORANDUM

To: Loveland City Council
From: Brett Limbaugh, Development Services Director
Date: December 13, 2016
Re: Zoning Code Update Project

I. INTRODUCTION

- A. The subject of this City Council study session is Task 2 of the Zoning Code Update project, which proposes significant changes to the procedures for processing development applications. The project team wants to be sure City Council understands and supports the direction being proposed prior to moving forward with the rest of the project. The reference document (see **Attachment A**) is entitled *Unified Development Code Update, Development Review Procedures (Second Working Draft)*. This document was prepared and revised by the City's consultant, Todd Messenger, based on input from other members of the project team. It's important to note that this document is a still a working draft, containing sections that are not totally complete. The document will be revised and completed as we proceed with subsequent tasks.
- B. The work plan for the Zoning Code Update project, (**Attachment B**) includes six integrated tasks, which when complete will consolidate Loveland's three existing development codes (Zoning, Annexation and Subdivision) into a single Unified Development Code (UDC).
1. **Task 1 - Code Assessment:** This task was completed in August 2016 with submittal of a document prepared by Todd Messenger entitled *Strategic Assessment of City of Loveland, Colorado Land Development Regulations*. The document (**Attachment C**) presents a critical assessment of Loveland's three existing development codes.
 2. **Task 2 - Simplified Procedures:** (This is the Task under consideration at this study session) Significant changes are being recommended in how development applications are processed to achieve the following goals:
 - a) To make the approval process for all development applications as clear, simple and efficient as practicable;
 - b) Minimize the cost to applicants of preparing applications until all discretionary approvals have been granted; and
 - c) Provide for effective citizen participation in all discretionary decisions.
 3. **Task 3 - Infill and Corridor Development Standards:** Development standards will be recommended to promote infill development and property reinvestment along Loveland's major transportation corridors and in selective neighborhoods. This task is in process.

4. **Task 4 – New Residential Districts:** Development standards will be recommended to simplify existing regulations and promote mixed use residential products and densities and facilitate the expansion of existing buildings. **Task 5 – Development Standards:** Existing development standards will be revised and new ones recommended to reflect the quality of development desired by the Planning Commission, City Council and the Loveland community.
5. **Task 6 – General Modernization:** This task will combine the draft code sections completed in previous tasks and revise existing code sections to create an internally consistent and simplified Unified Development Code.

II. INTERNAL STAFF PARTICIPANTS

In addition to the consultant, Todd Messenger, the following City staff members worked on this project as members of the project team: Brett Limbaugh, Greg George, Bob Paulsen, Karl Barton, Kerri Burchett and Moses Garcia. The following members of the Technical Committee have reviewed all draft products to ensure internal consistency:

- Ned Sparks – Fire Authority/Fire Marshal
- John Schumacher – Chief Building Official
- Janet Meisel-Burns – Senior Parks Planner
- Kevin Gingery – Senior Stormwater Engineer
- Justin Stone – Transportation Engineer
- Kim Fentress – Power Division
- Melissa Morin – Water Division
- Kirsten Gjeldede-Bennett – City Clerk's Office
- Terry Andrews – City Clerk

III. TASK 2 – SIMPLIFIED PROCEDURES

- A. **Planning Commission Review:** The Planning Commission reviewed the *Unified Development Code Update, Development Review Procedures (Second Working Draft)* at two study sessions on November 14th and November 28th. At the November 14th meeting, Planning Commission members voiced concern that the new procedural framework could significantly reduce the Planning Commission's role as a sounding board for Loveland citizens. They were concerned that there would be a considerable reduction in the number of development projects that would involve public review and/or require Planning Commission approval.

At the November 28th meeting, City staff explained in additional detail that the new procedures provided a framework for the review of development applications and that the Planning Commission, through their review of the UDC as it is developed, will have the opportunity to determine the extent of Planning Commission review for each use in each zoning district. These decisions will be made as part of Task 5, once existing development standards have been updated and new ones created (Tasks 3, 4 and 5). The framework for making these decisions will be the creation of a Land Use Table: an example is provided in **Attachment D**. The table will identify, for each use in each zoning district, whether the use is allowed or prohibited, and if it is allowed, whether it is a *Use-by-Right*, *Limited Use*, *Adaptable Use* or *Conditional Use*. The assignment of different review classifications to each land use in each district will depend on the extent to which Loveland citizens, the Planning Commission and City Council are satisfied that compliance with the revised and new development standards is adequate to ensure that a land use is compatible with other uses allowed in the applicable zoning district.

By the end of the meeting on November 28th, the Planning Commission felt generally comfortable with the recommended procedures and agreed to move the project forward to the December 13th City Council study session. The Planning Commission has been invited to attend the December

13th City Council study session and is scheduled to hold a public hearing on the proposed procedures on January 23, 2017.

B. Significant Changes:

1. **Sketch Subdivision Plat:** This application would give applicants the option of submitting a conceptual plat for initial review and approval instead of the current process which requires a surveyed plat and detailed public improvement construction plans. A *Sketch Plat* would depict the general layout of lots, streets, open space, bufferyards, stormwater detention, access to adjacent streets, etc. The *Sketch Plat* would provide the information necessary for substantive review while delaying the expense of preparing the final documents until the final plat application.
2. **Sketch Site Development Plan:** Similar to the *Sketch Plat*, this process would allow approval of a *Sketch Site Development Plan* by the Director prior to the applicant being required to submit a fully detailed *Site Development Plan* with engineered public improvement construction plans. This procedure would be at the applicant's option.
3. **Design Approval:** This change would create a process for an applicant to receive approval of the building architecture prior to submittal of a *Sketch* or *Final Site Development Plan*. This procedure would also be at the applicant's option.
4. **Inclusion of Tables:** Tables are being proposed to remove unnecessary words and present information critical to the development review process in a format that is easier to find and understand (*see tables on pages 8, 26 and 27 of Attachment A*) The information provided in these tables is currently scattered throughout the City's three existing development codes.
5. **Appeals:** The project team is proposing that the final *Appellate Body* for initial decisions by the Director be the Planning Commission, with no further appeal to City Council. The final *Appellate Body* for initial decision by the Planning Commission would be City Council. Decisions by the final *Appellate Body* would be the final quasi-judicial decision of the City, appealable only to a court pursuant to the applicable Colorado Rules of Civil Procedure. Criteria set forth in the UDC would allow the City Attorney's office to determine if an appeal had legal standing to proceed.
6. **Standardized Development Review Procedure:** The current *Special Review Use* process would be replaced with a more standardized and efficient procedural framework to provide more options for processing land use applications. In addition to *Use-by-Right*, the three new options would be *Limited Use*, *Adaptable Use* or *Conditional Use* (*see Attachment E*).
7. **Development Standards:** In later tasks, the project team will be proposing revisions to existing development standards and new development standards to improve clarity and ensure consistent application. The primary purpose for developing revised and new standards is to ensure quality development based on community-referred standards. The goal being that the Director would then be authorized to approve projects that comply with the new standards provided the land use is a *Use-by-Right*, *Limited Use* or *Adaptable Use*. The Planning Commission would apply development standards (as well as additional, more general conditional use standards) to *Conditional Uses*.
8. **Threshold Review for Neighborhood Meetings:** The process required to notice, conduct and attend neighborhood meetings when there is very little or no interest in the project from member of the neighborhood creates significant inefficiencies and delays in the development review

process. The project team is proposing to establish *Threshold Criteria* that the Director would apply in determining if a neighborhood meeting is required for an *Adaptable Use*.

9. **Public Notice Requirements:** The current requirements for mailed notices is complicated and inefficient, particularly due to the multitude of different notice distances for different application types. The notice areas are also unnecessarily large, which creates increased cost to the applicant. The project team is proposing to simplify the process for mailed public notices by, with some exceptions, standardizing the notice distance to 250 feet. The new provisions provide the Director discretion to reduce the notice distance for infill projects and expand the notice distances if the Director reasonably anticipates that due to unusual elements of the application there is a community interest broader than the required notice area.

C. Public Review: The *Unified Development Code Update, Development Review Procedures (Second Working Draft)* has been reviewed by the three working committees (Title 18, Technical and Stakeholder). The members of each of those committees are listed in **Attachment F**. The schedule for Task 2 (**Attachment G**) illustrates the review process and where we are today. In addition, the document was sent to an e-mail list of more than 260 individuals representing the development community and Loveland citizens for their review and comment.

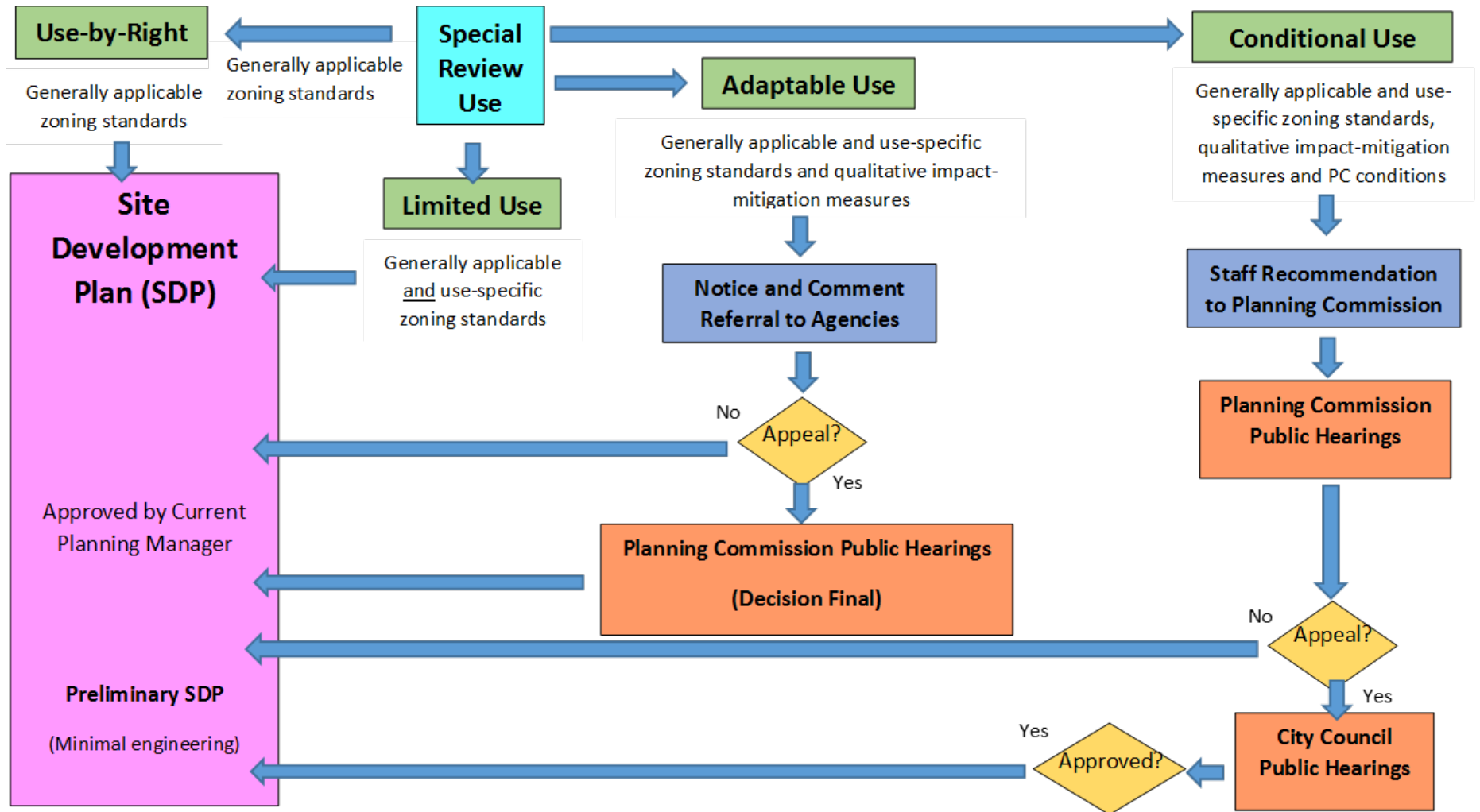
IV. **BUDGET IMPACTS**

Funding for the Zoning Code Update project was appropriated as part of the 2015 City of Loveland annual budget.

V. **ATTACHMENTS**

- A. Unified Development Code Update, Development Review Procedures (Second Working Draft)
- B. Zoning Code Update Project Work Plan
- C. Strategic Assessment of City of Loveland, Colorado Land Development Regulations
- D. Land Use Table (example)
- E. Standardized Development Review Procedure
- F. Project Committee Members
- G. Task 2 Schedule

STANDARDIZED DEVELOPMENT REVIEW PROCESS



LAND USE TABLE

(Example)

LAND USE TABLE								
LAND USE	ZONING DISTRICTS							Development Standards
	Residential			Mixed Use	Downtown	Business	Industrial	
	Estate	Low Density	High Density					
Medical Clinic	A	A	L	L	R	R	A	\$6.03.401
Office	A	A	L	R	R	R	A	\$6.03.401
Bank	A	A	L	R	R	R	A	\$6.03.402
Restaurant w/drive thru	X	X	A	L	L	R	A	\$6.03.403
Retail Store	X	C	A	L	R	R	A	\$6.03.404
Gas Station	C	C	A	A	A	R	L	\$6.03.405
Lumberyard	X	X	X	C	X	A	R	\$6.03.406
Jail	X	X	X	X	X	X	C	§ 6.03.407

LEGEND

R – Use-by-Right L – Limited Use A – Adaptable Use C – Conditional Use X – Use Not Allowed



Required notice and comment to neighborhood and, at discretion of Director based on certain criteria, a neighborhood meeting with possible appeal to Planning Commission.



Development application goes directly to Planning Commission for public hearing with possible appeal to City Council

UNIFIED DEVELOPMENT CODE

Development Review Procedures

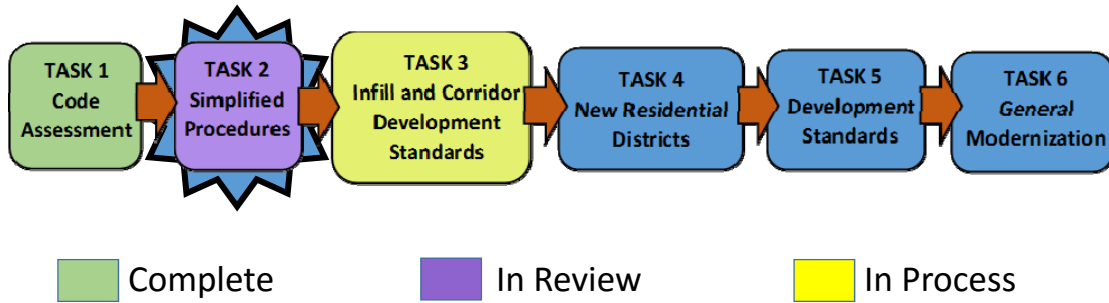
Loveland Planning Commission Public Hearing

January 23, 2017

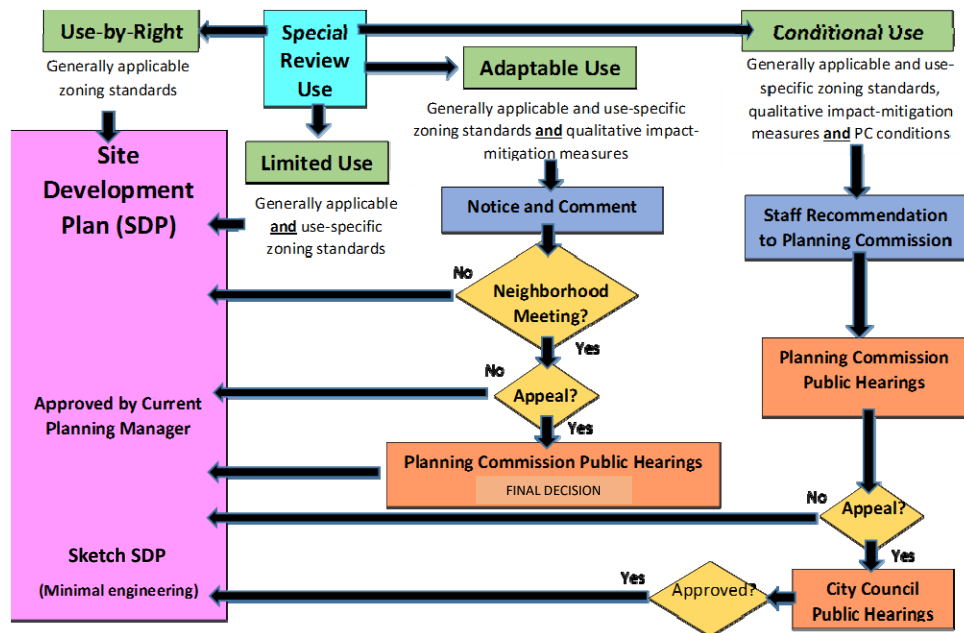
Goals

- To make the approval process for all development applications as clear, simple and efficient as practicable;
- Minimize the cost to applicants of preparing applications until all discretionary approvals have been granted; and
- Provide for effective citizen participation in all discretionary decisions.

Project Tasks



Standardized Development Process



Land Use Classifications

Classification	Standards			
	Generally Applicable Zoning	Use-Specific	Qualitative Impact-Mitigation Measures	Planning Commission Conditions
1. Use-by-Right (R)	X			
2. Limited Use (L)	X	X		
3. Adaptable Use (A)	X	X	X	
4. Conditional Use (C)	X	X	X	X

Land Use Table

LAND USE TABLE								
LAND USE	ZONING DISTRICTS							Development Standards
	Residential			Mixed Use	Downtown	Business	Industrial	
	Estate	Low Density	High Density					
Medical Clinic	A	A	L	L	R	R	A	\$6.03.401
Office	A	A	L	R	R	R	A	\$6.03.401
Bank	A	A	L	R	R	R	A	\$6.03.402
Restaurant w/drive thru	X	X	A	L	L	R	A	\$6.03.403
Retail Store	X	C	A	L	R	R	A	\$6.03.404
Gas Station	C	C	A	A	A	R	L	\$6.03.405
Lumberyard	X	X	X	C	X	A	R	\$6.03.406
Jail	X	X	X	X	X	X	C	\$ 6.03.407

LEGEND

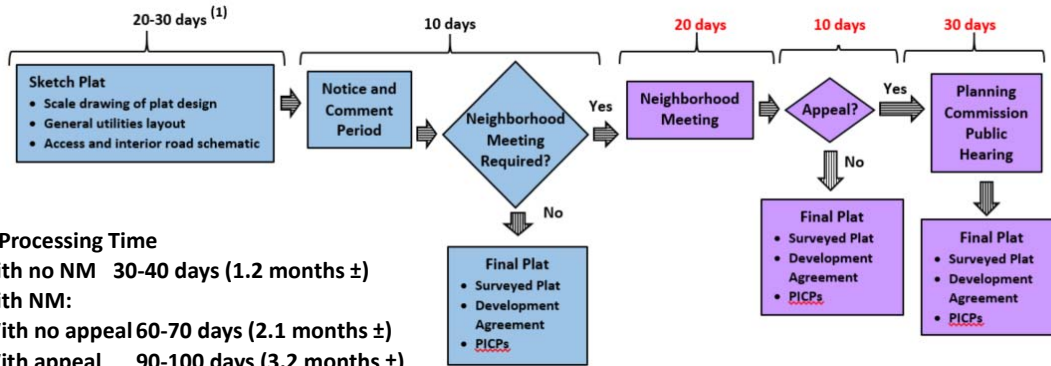
R – Use-by-Right L – Limited Use A – Adaptable Use C – Conditional Use X – Use Not Allowed

Required notice and comment to neighborhood and possible neighborhood meeting and appeal to Planning Commission.

Development application goes directly to Planning Commission for public hearing with possible appeal to City Council

Subdivision Platting Process

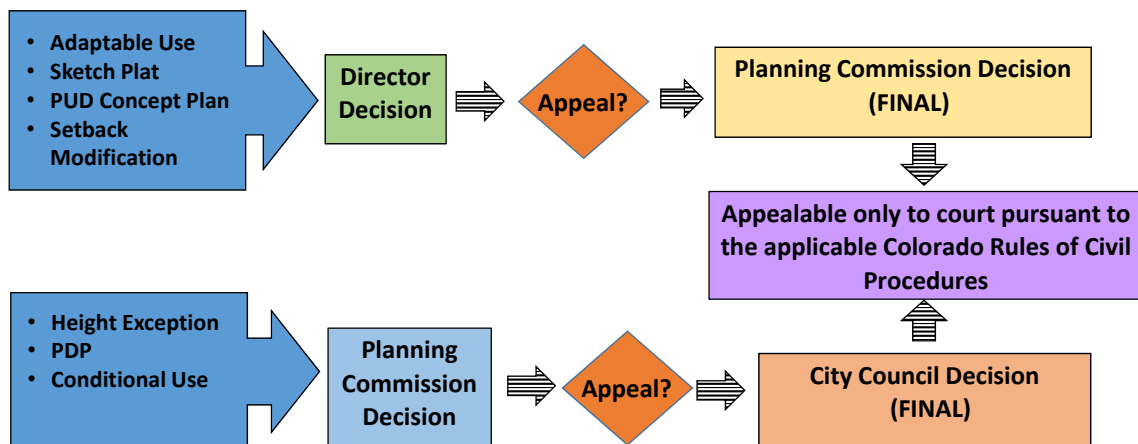
SKETCH PLAT



Total Processing Time

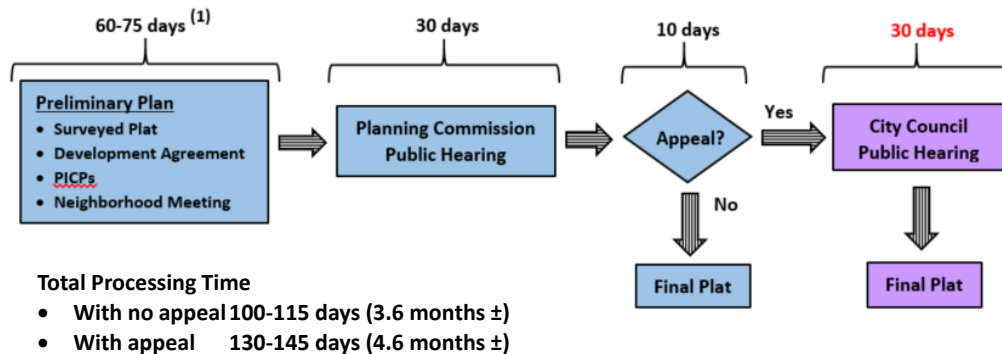
- With no NM 30-40 days (1.2 months ±)
- With NM:
 - With no appeal 60-70 days (2.1 months ±)
 - With appeal 90-100 days (3.2 months ±)

Appeal Process



Subdivision Platting Process

PRELIMINARY PLAT



More Administrative Process

- Director makes decisions on most common application types based on articulated standards in code
- Planning Commission makes recommendations to City Council on the following application types:
 - Amendments to the Comprehensive Plan
 - Certification of Designation
 - General Development Plans
 - Zoning
- City Council makes final decision on all the above, plus:
 - Vacation of right-of-way
 - Vacation of obsolete subdivisions
 - Creation of vested rights
 - Annexations

Team and Committee Members

City Staff:

- Rod Wensing – Assistant City Manager
- Moses Garcia – Assistant City Attorney
- Brett Limbaugh - Development Services Director
- Greg George – Special Projects Manager
- Robert Paulsen – Current Planning Manager
- Karl Barton – Senior Planner, Strategic Planning
- Kerri Burchett – Principal Planner, Current Planning

Stakeholder Committee:

- Steve Steinbicker – Architecture West
- Barbara Koelzer – Regional Government Affairs Director
- Jacque Wedding-Scott – DDA Director
- Katie Cooley – The True Life Company
- Debbie Davis – Guarantee Bank/LDP /Elks
- Jim Cox – Architect/Historic Preservation Commission
- Katie Guthrie - CoDo
- Lee Martin – Landmark Engineering
- Steve McMillan - Developer
- Kim Perry – McWhinney, Vice President, Community Design
- David Crowder – McWhinney, Vice President, Community Development
- Jim Niemczyk – McWhinney, Director of Infrastructure Management
- Renae Hupp – Loveland Berthoud Association of Realtors
- Mark Koentopp – Loveland Berthoud Association of Realtors

Technical Committee:

- Ned Sparks – Fire Authority, Division Chief/Fire Marshal
- John Schumacher – Building Division, Chief Building Official
- Janet Meisel-Burns – Parks and Recreation, Senior Parks Planner
- Kevin Gingery – Public Works, Senior Storm Engineer
- Justin Stone – Public Works, Transportation Development Review, Senior Civil Engineer
- Kim Fentress – Power Division, Development Review Coordinator
- Melissa Morin – Water Division, Civil Engineer
- Kirsten Gjælde-Bennett – City Clerk's Office, Administrative Specialist
- Terry Andrews – City Clerk

Title 18 Committee:

- Cecil Gutierrez – Mayor
- Dave Clark – City Council
- Buddy Myers – Planning Commission
- Rob Molloy – Planning Commission
- Al Hauser – Hauser Architects
- Ken Merritt – JR Engineering



Loveland-Berthoud Association of REALTORS®

730 North Railroad Avenue
Loveland, Colorado 80537
(970) 669-1822 • Fax (970) 669-1858
www.lbaronline.com

January 23, 2017

Loveland Planning Commission
500 East Third Street
Loveland, CO 80537

Dear Chairman Jersvig and Planning Commission,

The Loveland-Berthoud Association of REALTORS® supports the creation of a Unified Development Code for the City of Loveland. We believe a streamlined, easy to understand development code is in the best interest of citizens, staff and developers.

We have reviewed the Development Review Procedures currently under review as "Task 2." Creating more efficient review procedures is commendable. In the development business, time is money. The new procedures reduce uncertainties and is less capital-intensive on the front end for developers. The public and Planning Commission will still have opportunities to weigh in on developments but the developer will get through the approval process faster. We believe the new procedures will enhance communication and allow for quality development, stimulating needed development in our city.

We look forward to reviewing other components of the Unified Development Code as they are developed. Thank you for giving us the opportunity to be involved in this important project.

Sincerely,

David Powell, Chair

Loveland-Berthoud Association of REALTORS®



REALTOR® - is a registered mark which identifies a professional in real estate who subscribes to a strict Code of Ethics as a member of the NATIONAL ASSOCIATION OF REALTORS®





Current Planning Division

410 E. 5th Street • Loveland, CO 80537
(970) 962-2523 • eplan-planning@cityofloveland.org
www.cityofloveland.org/DC

REVISED MEMORANDUM

January 10, 2017

To: Planning Commission

From: Bob Paulsen, Current Planning Manager

Subject: 2016 Accomplishments & 2017 Goals

At the beginning of each year, the Planning Commission reviews its accomplishments from the previous year and establishes goals for the new year. Below I have provided a draft list of items for the Commission's review.

Planning Commission Accomplishments in 2016

- Held 20 regular meetings in 2016 reviewing 54 separate agenda items, conducted 16 public hearings and held 6 study sessions including joint study sessions with the City Council and the County Commission and County Planning Commission.
- Guided the development and adoption of Create Loveland, the City's fully updated Comprehensive Plan. Adoption of Create Loveland is the culmination of a multi-year planning effort that included extensive citizen participation and significant Planning Commission input. This important long-term plan sets a policy framework for community growth and development, establishing a community vision and a foundation for more detailed planning efforts.
- Guided the development and adoption of the Flexible Zoning Overlay Code. These new standards are designed to facilitate the development of sites challenged by disinvestment or site constraints, giving developers the option to create their own development standards. This flexibility is balanced by the opportunity for neighboring property owners and residents provide input in the design and approval process.
- Established improved communication and cooperation between the City and other government entities, including Thompson Schools and Larimer County. Approved a new Classical Schools campus, the Animal Humane Society facility and the County's new office campus on Denver Avenue. The Commission is dedicated to building upon the significant cooperation achieved in 2016 in order to foster a better community.
- Helped plan the new Development Center that opened in May of 2016. The new facility is designed to better serve the development community and the public by assembling the City's development permitting operations in a central facility.
- Facilitated expanded affordable senior housing options with approval of the Mirasol expansion.

- Initiated work on the Unified Development Code which has a scheduled completion date of November 2017. The new code will replace a 40-year old document with an integrated, clear and efficient means for guiding development.
- Provided initial input on the Downtown Foundry project that is scheduled for public hearing in the first quarter of 2017.

Planning Commission Goals for 2017

- Increase collaboration with other City boards and commissions, working to share information and improve cooperation that will foster the development of better policies and a more informed public. Boards that may be the best candidates include the Historic Preservation Commission, the Transportation Advisory Board and the Construction Advisory Board.
- Continue fostering cooperation and collaboration with other government entities, including Thompson Schools and Larimer County. Pursue opportunities where collaboration will foster ongoing community benefits.
- Conduct field visits with staff that help the Commission guide the development of site and architectural standards that will be included in the Unified Development Code.
- Obtain training on how to develop site and architectural standards that achieve community goals in order to guide development of the Unified Development Code.
- Downtown Revitalization: Monitor and remain active in downtown planning and development initiatives.
 - ☐ Schedule regular staff briefings with the Commission
 - ☐ Participate on committees and in workshops
 - ☐ Monitor progress made by the Downtown Development Authority & the Loveland Downtown Team
- 287 Plan Implementation: Obtain regular updates on implementation efforts, ensuring that adequate resources and attention is given to corridor revitalization.