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SECTION 12 REGULATORY PROCEDURES

12.1 GENERAL PROVISIONS

12.1.1 Regulatory Procedures

The Regulatory Procedures set forth in this Section 12 define submittal requirements and Review Timelines for Development Projects within the GDP, including but not limited to, processes for administrative and Public Review of Development Projects containing Uses-by-Right and Special Review Uses and of Minor Subdivisions, GDP Sketch Plats, Final Plats, combined GDP Sketch Plats and Final Plats, Modifications of Standards, Alternative Compliance, Appeals, Major Amendments and Minor Amendments. These Regulatory Procedures shall govern all development within the GDP, as set forth in the GDP.

The provisions of the UDC and Municipal Code shall apply to all projects within the GDP; provided, that the Controlling Documents shall govern all development within the GDP, and the Regulatory Procedures shall supersede any City guideline, plan, procedure, policy, requirement, or UDC or Municipal Code provision that they are In Conflict With or Inconsistent With, except when the matter implicates life safety requirements and/or a direct threat to the public health, safety, or welfare, as determined by the Director and Utilities or Public Works, as applicable, or Fire.

Interpretative authority for the applicability of the UDC and Municipal Code is set forth in Section 12.2.2.C.

12.1.2 Centerra Design Review Committee

The Regulatory Procedures incorporate a review process by the Centerra DRC, a private committee created for the purpose, among others, of evaluating

Development Projects within the GDP, for compliance with the GDP and the Design Guidelines.

The legal documents which establish the Design Guidelines and grant the Centerra DRC the authority to review Development Projects within the GDP, are on file with the City. The Centerra DRC shall at all times be comprised of a minimum of three voting members. Voting members shall include the Developer DRC Representative, and two additional individuals, which may include any combination of the following: a registered architect, a certified planner, a registered landscape architect, a licensed Colorado professional civil engineer, a sustainability consultant and/or other appropriate design professional, each as appointed by the Developer. Additionally, the Centerra DRC shall include the City DRC Appointee. The role of the Centerra DRC in the evaluation of development within the GDP is described in detail in Section 12.3.1. The role of the City DRC Appointee shall be to review all documents provided by the Centerra DRC related to each Development Project reviewed by the Centerra DRC prior to attendance at the Centerra DRC meeting; to submit written comments to the Centerra DRC at the meeting, which comments need not be a substitute for the City's review and entitlement process, but which should describe any significant issues identified by the City; to report to the City as needed regarding Development Projects considered by the Centerra DRC. The City DRC Appointee may serve as the Director's designee for purposes of approving a Modification of Standards, Alternative Compliance, or other alternative solution, as applicable; provided however, that the City DRC Appointee's decision may be appealed to the Director in writing within 10 Days of the City DRC Appointee's decision. The Director shall make a final determination on the appeal as soon as practicable.

12.1.3 Rules of Construction

Unless otherwise specified, all meanings attributed to defined terms in the GDP shall be equally applicable

to both the singular and plural forms of the terms so defined. The use of any pronoun with respect to gender shall include the neutral, masculine and feminine.

Common words including but not limited to “may,” “must,” “shall,” and “will” shall have the meaning ascribed to them in Section 13 notwithstanding the fact that they are not capitalized throughout the GDP.

All references to “Days” shall refer to calendar days, unless otherwise specified herein.

12.2 REVIEW STANDARDS

12.2.1 Controlling Documents

A. The primary review standards for Development Projects within the GDP are: the Special Conditions which are applicable to Development Projects within designated GDP Parcels and are attached as appendices to Sections 2 through 5; the General Conditions which are applicable to all Development Projects within the GDP and are attached as an appendix to Section 1; and the Performance Standards for architecture, site planning, Landscaping, streetscape and signage which are applicable to all Development Projects and are contained in Sections 6 through 10, and 16. In addition, the provisions of the Restated Agreement, including, but not limited to provisions regarding Vested Property Rights, govern all Development and Development Projects within the GDP.

B. In the event of a conflict or inconsistency between provisions of the Controlling Documents applicable to a Development Project, the following hierarchy shall prevail: (1) the Restated Agreement; (2) the Special Conditions; (3) the General Conditions; (4) any Modification of Standards or Alternative Compliance; and (5) any other provision of the GDP.

C. If the Centerra DRC has issued a decision letter that finds the Development Project (including any Modification of Standards or Alternative Compliance) does not comply with the GDP and/or Design

Guidelines, the City will defer its acceptance for review of such Development Project in accordance with the process set forth in Section 12.3.1.B.

12.2.2 City Review/Approval Authority

A. The City shall have the regulatory authority to interpret and enforce the Controlling Documents and any provisions of the UDC and the Municipal Code as may apply relative to the GDP. However, the City shall seek to effectuate the intent of the Controlling Documents and the GDP goals set forth in Section 1.1.2.

B. Section 12.2.2.A shall not be construed as a waiver by the Applicant of any right to challenge a City interpretation or the City’s denial of a Development Project. If applicable, any such challenge shall first be processed as an Appeal in accordance with Section 12.4.

C. Where any exception to the applicability of the GDP may be applicable or the GDP is In Conflict With or Inconsistent With the Municipal Code, UDC or other engineering standards adopted by the City in writing, the City staff person reviewing the Development Project shall immediately notify the Director. In such event, the Developer DRC Representative and the Director shall together expeditiously determine and mutually agree on the best solution that furthers the GDP goals set forth in Section 1.1.2, which may include an amendment to the GDP, or an alternative solution that is neither in the GDP, the UDC, the Municipal Code, nor other engineering standards adopted by the City in writing. If the Developer DRC Representative and the Director are unable to agree upon a solution, the City Manager shall determine which solution furthers the GDP goals set forth in Section 1.1.2. The process set forth in Section 12.2.2.C shall not apply to any matter that implicates life safety requirements and/or a direct threat to the public health, safety, or welfare, as specified in Section 12.1.1.



12.2.3 Deviations from Performance Standards

If an Applicant desires to deviate from the requirements of a Performance Standard, the Applicant shall prepare an application for either a Modification of Standards or Alternative Compliance following the review process set forth in Figure 12.1 and Section 12.3.1.A below. An application for a Modification of Standards or Alternative Compliance may be submitted as a preliminary application prior to the submittal of a Development Project, or together with the submittal of such Development Project, which shall follow the review process set forth in Section 12.3.1.

A. For any quantifiable standard, such as height, setbacks, number of trees, and the like, the Centerra DRC and Director together may grant a Modification of Standards so long as the proposed modification is no more than a 20% deviation from the required quantifiable standard, furthers the GDP goals set forth in Section 1.1.2, and the Centerra DRC has issued a decision letter in accordance with Section 12.3.1.B.

B. For standards which are not quantifiable, the Centerra DRC and Director together may grant an Alternative Compliance so long as the proposed modification will not harm the public health, safety or welfare, furthers the GDP goals set forth in Section 1.1.2, and the Centerra DRC has issued a decision letter in accordance with Section 12.3.1.B. In approving Alternative Compliance, the Centerra DRC and Director shall find that the proposed alternative plan accomplishes the purposes of the Performance Standard for which Alternative Compliance is sought equally or better than a plan which complies with the Performance Standard, furthers the GDP goals set forth in Section 1.1.2, and the Centerra DRC has issued a decision letter in accordance with Section 12.3.1.B.

C. If an application for a Modification of Standards or Alternative Compliance is submitted as a preliminary application prior to a submittal of a Development Project to the City, an applicant shall receive a decision letter from the Centerra DRC in accordance with

Section 12.3.1.B relating to a Modification of Standards or Alternative Compliance. Any subsequent application to the City for a Development Project shall include the Centerra DRC's decision letter relating to the Modification of Standards or Alternative Compliance.

D. If an application for a Modification of Standards or Alternative Compliance is not submitted as a preliminary application prior to a submittal of a Development Project, it shall be incorporated into the Development Project, which shall follow the review process set forth in Section 12.3.1.

E. For any Modification of Standards or Alternative Compliance for which the Centerra DRC has issued a decision letter in accordance with Section 12.3.1.B, the Centerra DRC and the Director shall together and mutually agree to grant any Modification of Standards or Alternative Compliance. If granted, Modification of Standards and Alternative Compliance requests shall be clearly acknowledged on the approved Development Project document; however, such notes on GDP Sketch Plats, combined GDP Sketch Plats and Final Plats, and Final Plats are prohibited. The City shall keep records of any Development Project that includes a Modification of Standards or Alternative Compliance request.

F. If the Centerra DRC and/or Director denies a requested Modification of Standards or Alternative Compliance, the Applicant may Appeal such denial to the Planning Commission for a final decision, subject only to a right of Appeal to the City Council by the Applicant. The Appeal procedure shall be as set forth in Section 12.4.1.

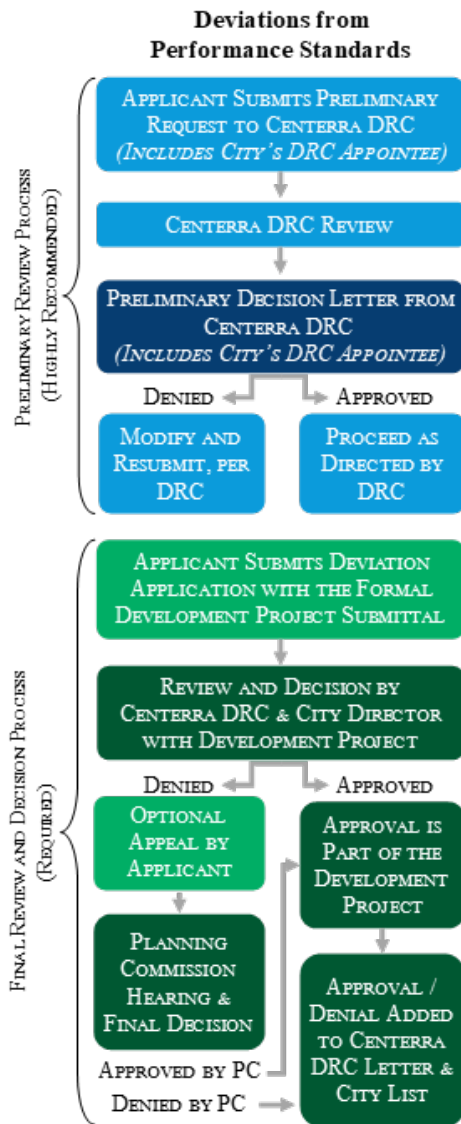


Figure 12.1

12.2.4 Development Contiguity

Proposed Development Projects shall meet the contiguity requirements of the Comprehensive Plan, to the extent reasonably feasible.

12.3 REVIEW PROCESS

12.3.1 Centerra DRC Review

A. The preliminary application for Development Projects review shall be submitted to the Centerra DRC. The Centerra DRC shall review the Development Project application in accordance with the Centerra DRC’s policies and procedures in effect at the time the application is submitted to ensure compliance with the GDP and the Design Guidelines.

B. All Development Projects within the GDP submitted to the City shall be accompanied by a letter from the Centerra DRC stating its recommendation for final approval of the proposed Development Project, with or without conditions, based upon its compliance with the GDP, including whether the Development Project complies with the Design Guidelines, and a copy of the documents reviewed by the Centerra DRC upon which its recommendation was made. If the Centerra DRC has issued a decision letter that finds the Development Project does not comply with the GDP and/or the Design Guidelines, the City will (1) recommend to the Applicant that he or she attempt to resolve any issues with the Centerra DRC and (2) unless a specific review or approval timeline is required by State or Federal law or regulation, including any such requirement as adopted or incorporated into the UDC or Municipal Code, defer its review of such Development Project, including without limitation, any Modification of Standards or Alternative Compliance, until the Centerra DRC has issued a decision letter that finds the Development Project complies with the GDP and the Design Guidelines. Notwithstanding the foregoing, if the Applicant and the Centerra DRC have not resolved the issue(s) regarding the Development Project within 60 days after the Centerra DRC has received the City's recommendation to resolve the issue(s) regarding the Development Project, the Centerra DRC shall notify the City, the City and the Centerra DRC shall together expeditiously determine and mutual agree on the best solution that furthers the GDP goals set forth in Section 1.1.2, and



the City may accept for review such Development Application, and approve it or approve it with conditions in accordance with the procedures set forth herein. If the Centerra DRC and the City are unable to agree upon a solution, the City Manager shall determine which solution furthers the GDP goals set forth in Section 1.1.2.

C. The Centerra DRC review process for applications for Modification of Standards and Alternative Compliance shall follow the review process set forth in Figure 12.1. Whether as a standalone application or part of a concurrent application, Development Projects which incorporate a Modification of Standards or Alternative Compliance shall be accompanied by a letter from the Centerra DRC in accordance with Section 12.3.1.B.

D. The Centerra DRC may assign certain review and decision-making responsibilities for residential and non-residential Development Projects to an individual or a subcommittee of the Centerra DRC as authorized by the Centerra DRC, provided that that the City has been given written notice of such assignment.

E. The City shall accept the statement of the Centerra DRC regarding compliance with the GDP, unless the City provides a letter to the Centerra DRC describing the ways in which the Development Project does not comply with applicable provisions of all Controlling Documents and any applicable provisions of the UDC and/or the Municipal Code. In such event, the City and the Centerra DRC shall together expeditiously determine and mutually agree on the best solution that furthers the GDP goals set forth in Section 1.1.2, which may include an amendment to the GDP, or an alternative solution that is neither in the Controlling Documents, the UDC, the Municipal Code, nor any other engineering standards adopted by the City in writing; provided, however that, if the City and the Centerra DRC are unable to agree upon a solution as to the Controlling Documents, the City Manager shall determine which solution furthers the GDP goals set forth in Section 1.1.2. The process set forth

in this Section shall not apply to any matter that implicates life safety requirements and/or a direct threat to the public health, safety, or welfare, as specified in Section 12.1.1.

F. The City DRC Appointee described in Section 12.1.2 shall coordinate comments from the City's Development Review Team and deliver the comments, when available, including but not limited to comments relating to engineering, planning, and transportation, for inclusion in the Centerra DRC review process.

G. After an Applicant has submitted a Development Project to the City, the Centerra DRC shall act as a referral agency, and at the request of either the Developer DRC Representative or the City DRC Appointee, may submit in writing a request to the Director to participate in a meeting with the City's Development Review Team, to ensure that the Development Project remains compliant with the GDP and Design Guidelines for each round of review. If the Director denies the request to attend a meeting with the City's Development Review Team, the Director shall provide the Developer DRC Representative's request with written justification of the denial. If the Centerra DRC determines that the Development Project no longer complies with the Centerra DRC's decision letter, the City's review shall follow the process set forth in Section 12.3.1.B.

12.3.2 Complete Application to the City

A. For purposes of these Regulatory Procedures, a Complete Application is defined as a Development Project submittal for which all of the following requirements have been met:

1. The Applicant has submitted a completed development application form for the type of application(s) being submitted; and

2. The Applicant has submitted every item listed on the approved Submittal Checklist for the type of development application(s) being submitted, unless such item has been waived by the designated City official as set forth on the applicable Submittal Checklist, except that tables itemizing the deviations from the controlling provisions of the (i) GDP or (ii) UDC and/or the Municipal Code, shall be required; and
3. Submittal Checklists for Development Projects will be approved, and may be modified, administratively by the Director upon notice to Developer without amendment of the GDP. Notwithstanding the foregoing, any modifications to Submittal Checklists shall not apply to applications submitted prior to such modification; and
4. The Applicant has submitted the documentation from the Centerra DRC as required by Section 12.3.1; and
5. The Applicant has paid all required fees for the type of development application(s) being submitted.

B. If an Applicant desires to develop a project containing a land use that is not specifically listed as either a Use-by-Right or Special Review Use for any Subparcel of the GDP, the Applicant shall obtain a determination from the Director as to the proper categorization of the desired use prior to submittal of a Development Project which contains such use. The Director's determination shall be based upon the similarity of or compatibility with the desired use to the character of the uses specifically listed for the Subparcel in which the new use is desired. A use which is not Similar in character to or Compatible with a specifically listed Use-by-Right or Special Review Use shall not be permitted. A use shall be subject to the same standards and procedures as the use to which it was compared for the purposes of the favorable determination.

12.3.3 Development Projects

The City agrees to conduct review of applications within the Review Timelines for the applicable application type (Administrative Review, Public Review) as set forth in more detail in Section 12.3.6; provided that the Director may modify the Review Timelines for submitted, accepted, and future applications administratively at any time. All Development Projects shall be preceded by a Concept Review Meeting unless waived by the Director.

A. Uses-by-Right

The land use legends on Maps 4, 5, 6 and 7 of Section 11 contain a list of Uses-by-Right for each Subparcel.

1. Administrative Review. Development Projects for Uses-by-Right shall be processed in accordance with the Review Timelines for Administrative Review:
 - (a) The Review Timelines for Administrative Review have separate requirements for Development Projects with Uses-by-Right which fit within any of the following categories:
 - (i) Those located on a previously platted Lot;
 - (ii) Those submitted with a Boundary Line Adjustment, or Lot merger;
 - (iii) Those submitted with a Minor Subdivision;
 - (iv) Those submitted with a GDP Sketch Plat followed by a Final Plat; or
 - (v) Those submitted with a combined GDP Sketch Plat and Final Plat.
2. Public Review.
 - (a) A Development Project for a Use-by-Right which includes any one or more of the uses



listed in subsections (i) through (vi) below shall be processed in accordance with the Review Timelines for Public Review, which processes require a public hearing before the Planning Commission:

- (i) Any single Building over 60 feet in height directly abutting one or more existing platted or built Single Family Detached or Single Family Attached residential properties, or with only an intervening street of collector or smaller street classification;
 - (ii) Any single Building over 100,000 gross square feet containing a Heavy Industrial Use;
 - (iii) Any single Building over 50,000 gross square feet directly abutting one or more existing platted or built Single Family Detached or Single Family Attached residential properties, or with only an intervening street of local or smaller street classification;
 - (iv) Any Heavy Commercial Use directly abutting one or more existing platted or built Single Family Detached or Single Family Attached residential properties or with only an intervening street of collector or smaller street classification;
 - (v) Any Heavy Industrial Use abutting one or more existing platted or built residential properties or with only an intervening street of collector or smaller street classification; or
 - (vi) Veterinary facilities, Animal Clinics, Small Outdoor Use, and/or Pet Day Care Facilities with outdoor use Adjacent to any existing platted or built residential neighborhood.
- (b) A Development Project for a single non-phased use which includes a combined gross square footage of 500,000 non-residential

square feet or more shall be subject to Public Review in accordance with the Review Timeline, which process requires public hearings before the Planning Commission and the City Council as necessary to be consistent with the GDP.

- (c) The Public Review processes for the uses listed in (a) and (b) above shall include a neighborhood meeting and public hearings; provided, however, that projects with Administrative Review do not require a neighborhood meeting. Notice of the neighborhood meeting shall be given in accordance with the requirements of Section 12.3.7.B. Notice of the public hearings shall be given in accordance with the requirements of Section 12.3.7.A. Where required, notification of mineral estate owners in the property shall be given in accordance with the requirements of Section 12.3.8.

In connection with the uses listed in (a) above, the Planning Commission may deny, approve or approve with conditions the proposed use and the action of the Planning Commission shall be final, subject only to a right of Appeal to the City Council pursuant to Section 12.4.2.

In connection with the use referred to in (b) above, the action of the Planning Commission shall be in the form of a recommendation to the City Council. The City Council may deny, approve or approve with conditions the proposed use as defined in the following paragraph.

- (d) Public Review by the Planning Commission and the City Council of the development plan or Development Project, pursuant to these Regulatory Procedures, shall be limited to a review of the Context Diagram, site plan, landscape plan and architectural elevations,

any other supporting documentation reasonably required by the City, and any other evidence submitted at the hearing for the purpose of determining compliance with the Controlling Documents.

B. Special Review Uses

The land use legends shown on Maps 4, 5, 6 and 7 of Section 11 contain a list of Special Review Uses for each Subparcel.

1. Development Projects for Special Review Uses shall be subject to the review timelines for adaptable uses as set forth in the UDC.
2. The Review Timelines have separate requirements for Development Projects with Special Review Uses which fit within any of the following categories:
 - (i) Those located on a previously platted Lot;
 - (ii) Those submitted with a Boundary Line Adjustment or Lot Merger;
 - (iii) Those submitted with a GDP Sketch Plat followed by a Final Plat; or
 - (iv) Those submitted with a combined GDP Sketch Plat and Final Plat.
3. The Director shall evaluate Special Review Uses for compliance with the GDP and applicable criteria of the UDC or Municipal Code.

C. Use-by-Right and Special Review Use Combinations

An application for a Development Project containing both Uses-by-Right and Special Review Uses shall be subject to the review process described in Section 12.3.3.B.

D. Changes in Use

Changes in the use of an existing Building on an existing Lot to a Use-by-Right are subject to the City's building permit process and any applicable provisions of Title 15 of the Municipal Code.

E. Other Allowed Processes

1. Rezoning. In lieu of the procedures set forth herein for plans with Uses-by-Right and Special Review Uses, an Applicant may elect to rezone its property out of the GDP and to another planned unit development or other zoning designation permitted under the UDC. In such event, the Applicant shall comply with all applicable submittal and processing requirements of the UDC, including but not limited to a requirement that the Applicant provide satisfactory evidence that applicable adequate community facilities will be achieved.

F. Final Execution of Documents

Once received, the City shall execute all final documents and submit for recording, as applicable, within 14 Days of receipt by the City of such documents properly executed by all necessary parties except the City, provided that all other applicable City requirements have been met.

12.3.4 Plats

A. Administrative Review

1. All applications for plats (including applications for Minor Subdivisions, GDP Sketch Plats, Final Plats, combined GDP Sketch Plats and Final Plats, simple plats, Lot Mergers, and Boundary Line Adjustments) shall be administratively reviewed and a decision made thereon by the Director. Public hearings before the Planning Commission or the City Council are not required for any plat unless otherwise required by State statute, or by a Special Condition of this GDP or



in event that the administrative decision on the plat is appealed as provided herein.

2. An application for a plat that is not accompanied by an application for a Development Project shall be subject to the Review Timelines.
3. An application for a plat that is accompanied by an application for a Development Project containing Uses-by-Right and/or Special Review Uses, shall apply the applicable Review Timelines.
4. An application for a plat shall be preceded by a Concept Review Meeting.

B. Replats

In the event a plat is submitted in which the desired Development Project does not include all of the property within a legal parcel, the remaining property which is not then being developed may be shown as an Outlot on the plat which shall require replatting prior to City approval of any Development Project within such Outlot.

C. Final Execution of Documents

From the date the City receives all the stamped/sealed and signed plat and associated documents, the City shall have 14 Days to sign and record the necessary plat and associated documents, provided that all other applicable City requirements have been met.

12.3.5 Building Permits

Notwithstanding the timeframes for the submittal, processing and issuance of building permits (excluding grading permits) contained in the Review Timelines and as set forth in Section 12.3.6, the following requirements shall apply:

A. If approved by the Director, applications for non-residential building permits may be submitted

concurrently with a resubmittal of a subdivision plat application or SDP, or after approval and recordation of the Final Plat. Applications for residential building permits will only be accepted by the City for processing after approval and recordation of the Final Plat.

B. If approved by the Director, applications for residential master architectural plans may be submitted concurrently with the subdivision plat; provided, however, that building permits will be issued only after the subdivision plat is recorded and all applicable City building permit requirements have been met, as modified by General Condition No. 9.

C. Provided all applicable City building permit requirements have been met, as modified by General Condition No. 9, building permits for nonresidential buildings shall be issued after the installation of adequate Infrastructure Improvements in accordance with General Condition No. 9 and the Review Timelines.

12.3.6 Review Timelines

A. The Review Timelines provide important expectations for the review of development applications. Said Review Timelines may be modified or waived, administratively by the Director without amending the GDP. The City shall expedite the review of applications occurring within the GDP boundaries and make every reasonable effort to meet the Review Timelines. It is expected that Applicants also comply with the submittal timelines.

B. The Review Timelines are meant to be the maximum Review Timelines and shall not be construed as limiting the ability of the City to process any application in a shorter period of time.

C. In the event the City determines that it cannot complete its written comments and make them available to the Applicant within the timeframes set forth

in the Review Timelines, the City may retain a consultant to perform the necessary project review within such required timeframe. The City may require that the Applicant pay the cost of such consultant, provided that such payment is consistent with the City's then-existing general policy for payment of outside consultants by developers.

If there are instances in which the City is unable meet the timelines for any Development Project, the City DRC Appointee shall inform the Applicant in writing as to the adjusted review schedule. In the event that the Director determines that there are circumstances which prevent the City from meeting timelines over an extended period of time, the Director shall provide the Developer DRC Representative with a written justification and clear expectation as to the extent and duration of the extension of timelines.

D. In the event that the City adopts amendments to the procedural requirements of the UDC or otherwise approves a more streamlined review process for the GDP which effectively shortens the Review Timelines for one or more types of Development Projects, the Developer may submit an amendment to the Regulatory Procedures which would permit such new process to be an alternative permitted process under the Regulatory Procedures. Such amendment may be administratively approved by the Director in his discretion to apply either to a particular Development Project or to all future Development Projects within the GDP of a Similar type.

12.3.7 Public Notice Requirements

A. Unless otherwise provided for within the UDC, Municipal Code, or provision of state law, at least 15 Days prior to any hearing required by these Regulatory Procedures, public notification shall be given pursuant to the UDC.

12.3.8 Mineral Estate Owner Notification

Where required, the notification of mineral estate owners shall be given in accordance with the requirements of C.R.S. §24-65.5-101 et seq., as amended.

The public notice requirements of Section 12.3.7.A shall not be applicable to "initial public hearings" before the Planning Commission for the limited purpose of hearing objections of mineral estate owners pursuant to any Special Conditions of this GDP.

12.4 APPEALS

12.4.1 Modifications of Standard/Alternative Compliance /Uses-by-Right subject to an Administrative Review/Boundary Line Adjustments/Lot Mergers/ Minor Subdivision/ Final Plats/ Minor Amendments

A. Third party Appeals are not permitted with regard to the Director's administrative decision on an application for a Modification of Standards, an application for Alternative Compliance, a Development Project containing a Use-by-Right subject to Administrative Review, a Boundary Line Adjustment, a Lot Merger, a Minor Subdivision, a Final Plat, or a Minor Amendment.

B. Appeals with regard to the Centerra DRC's decision on an application for a Modification of Standards, an application for Alternative Compliance, or a decision letter by the Centerra DRC that finds that the Development Project conflicts with the Design Guidelines shall follow the process set forth in Section 12.3.1.B.

C. In the event that the Director denies an application or approves any such application with conditions that are not acceptable to the Applicant, the Applicant shall have the right to Appeal the Director's decision to the Planning Commission. The only grounds for Appeal shall be (i) that the Director did not have competent evidence to support his or her decision, or (ii) that the Director did not properly interpret or apply the applicable review standards. The Appeal shall



state the grounds upon which the Applicant is relying and the specific facts that support such grounds.

D. Appeals by the Applicant of an administrative decision by the Director shall be submitted in writing with the Director within 10 Days of the receipt of the Director's decision. The Planning Commission shall hold a hearing on the Appeal on the first available meeting date, as determined by the Director, following the filing of the Appeal and shall either reverse, modify or uphold the decision by the Director. The hearing before the Planning Commission shall be de novo (i.e. a new hearing in which the Planning Commission is entitled to hear and consider new evidence and testimony). Written notice of the Appeal hearing shall be given in accordance with the requirements of Section 12.3.7.A. The Director may adopt supplementary administrative procedures for such Appeals which are not In Conflict With or Inconsistent With these provisions. The decision of the Planning Commission shall be final unless it is appealed in writing by the Applicant to the City Council as provided in Subsection E. below.

E. Appeals of a decision of the Planning Commission shall be filed in writing with the Development Services Department within 10 Days of the Planning Commission's decision. The City Council shall hold a hearing on the Appeal at the next available meeting, as determined by the City Manager, after the Planning Commission's decision. The hearing before the City Council shall be on the record, i.e. limited to evidence which was before the Planning Commission at the time its decision was made. Written notice of the Appeal hearing shall be given in accordance with the requirements of Section 12.3.7.A and the City Council shall either reverse, modify or uphold the decision of the Planning Commission.

12.4.2 Public Review

A decision of the Planning Commission may be appealed to the City Council by the Applicant, an

adjoining property owner, a property owner who received mailed notice of an application for which a neighborhood meeting was required, and attended the neighborhood meeting or provided written comments to the Director before the Planning Commission's decision, or a property owner who received mailed notice of public hearing and either participated in the public hearing or provided written comments to the Director at or before the public hearing. The process for any such Appeal shall be the process described in Section 12.4.1.D, except that public notice of the hearing shall be given in accordance with the requirements of Section 12.3.7.A.

12.4.3 GDP Sketch Plats/Combined GDP Sketch Plats and Final Plats

A. The administrative decision of the Director on an application for a GDP Sketch Plat or a combined GDP Sketch Plat and Final Plat may be appealed to the Planning Commission by the Applicant, an adjoining property owner; a property owner who received mailed notice of an application for which a neighborhood meeting was required, and attended the neighborhood meeting or provided written comments to the Director before the Director's decision; or a property owner who received mailed notice of public hearing and either participated in the public hearing or provided written comments to the Director at or before the public hearing. The process for any such Appeal shall be the process described in Section 12.4.1.C, except that public notice of the Appeal hearing shall be given in accordance with the requirements of Section 12.3.7.A.

B. A decision of the Planning Commission pursuant to Section 12.4.3.A may be appealed to the City Council by the Applicant, an adjoining property owner; a property owner who received mailed notice of an application for which a neighborhood meeting was required, and attended the neighborhood meeting or provided written comments to the Director before the Director's decision; or a property owner who

received mailed notice of public hearing and either participated in the public hearing or provided written comments to the Director at or before the public hearing. The process for any such Appeal shall be the process described in at Section 12.4.1.D, except that public notice of the hearing shall be given in accordance with the requirements of Section 12.3.7.A.

12.4.4 Special Review Use Approvals

The administrative decision on a Special Review Use may be appealed to the Planning Commission by the Applicant, an adjoining property owner; a property owner who received mailed notice of an application for which a neighborhood meeting was required, and attended the neighborhood meeting or provided written comments to the Director before the Director's decision; or a property owner who received mailed notice of public hearing and either participated in the public hearing or provided written comments to the Director at or before the public hearing. The process for any such Appeal shall be the process described herein at Section 12.4.1.C and 12.4.1.D, except that public notice of the hearing shall be given in accordance with the requirements of Section 12.3.7.A.

12.5 AMENDMENTS

12.5.1 Amendments to the GDP

A. Consent to Amendments

The Controlling Documents shall, in accordance with the terms of the Restated Agreement, only be amended or terminated by the City with the consent in writing of the Developer, or any affiliated entity in which the Developer has a majority interest, and those third parties, if any, to whom the Developer has specifically granted, in writing, the right to approve such amendment or termination.

B. Major Amendments

A Major Amendment shall be subject to review and approval by the Planning Commission and City Council in accordance with the UDC. Public notice of the hearings and neighborhood meeting shall be given in accordance with the UDC. For Major Amendments that directly affect less than the entire GDP, the public notice requirement shall be specific to the Parcels or Subparcels of the GDP affected by the Major Amendment as determined by the Director in his or her reasonable discretion.

C. Minor Amendments

Minor Amendments shall be reviewed administratively, and a final decision made thereon by the Director without requiring the approval by the Planning Commission or the City Council.

12.5.2 Amendments to Uses-by-Right, Special Review Uses, and Plats

A. Uses-by-Right

Proposed amendments to a Development Project containing a Use-by-Right for which a building permit has been issued shall be reviewed in accordance with the same process by which the Development Project was approved. In the event, however, that the amendment proposes a use set forth in Section 12.3.3.A.2, the proposed amendment shall be subject to the Public Review process set forth therein.

B. Special Review Uses

Proposed modifications to an approved Special Review Use shall be reviewed in accordance with the applicable section of the UDC related to adaptable uses, except that public notice of any required hearing shall be given in accordance with Section 12.3.7.A.

C. Plats

Proposed modifications or amendments to an approved Minor Subdivision, GDP Sketch Plat, Final Plat, or Combined GDP Sketch Plat and Final Plat



shall be processed in accordance with the same process by which the plat was approved.