



## 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 subdivision plats, variations, appeals and amendments. The Regulatory Procedures shall govern all development within the GDP and shall expressly supersede and modify any City guideline, plan, administrative procedure, policy, requirement or Municipal Code provision which is in conflict or inconsistent therewith.

#### 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 private design standards adopted by the Centerra DRC.

The legal documents which establish the private design guidelines applicable within the GDP and creating the Centerra DRC with 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 (3) voting members. Voting members shall include one (1) individual representing the Developer, and two (2) additional individuals, which may include any combination of the following: a registered architect, a certified planner, a registered landscape architect, a registered professional civil engineer, a sustainability consultant and/or other appropriate design profes-

sional. All voting members of the Centerra DRC shall be appointed by the Developer. At the City's option, a City staff member may serve as a non-voting liaison to the Centerra DRC and a designated representative of the Director may also serve as a non-voting liaison for the purpose of evaluating requests for Variations of the Performance Standards pursuant to Section 12.2.4.

The role of the Centerra DRC in the evaluation of development within the GDP is described in detail in Section 12.3.1.

### 12.2 REVIEW STANDARDS

#### 12.2.1 Controlling Documents

A. The primary review standards for 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 of this GDP; the General Conditions which are applicable to all Development Projects within the GDP and are attached as an appendix to Section 1 of this GDP; and the Performance Standards for architecture, site planning, landscaping, streetscape and signage which are applicable to all GDP Development Projects and are contained in Sections 6 through 10 of this GDP. In addition, the provisions of the Restated Agreement, including, but not limited to provisions regarding Vested Property Rights, govern all 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; and (4) any other provision of the GDP.

### **12.2.2 Applicability of Municipal Code**

The provisions of the Municipal Code shall apply to all projects within this GDP except to the extent that any such provision is inconsistent with or in conflict with the terms and conditions of the Controlling Documents.

### **12.2.3 City Review/Approval Authority**

A. The City shall have the right and responsibility to interpret and enforce the Controlling Documents and any applicable provisions of the Municipal Code and the right to refuse to approve any Development Project within the GDP if such Development Project fails to comply with such requirements.

B. Section 12.2.3.A shall not be construed as a waiver by the Developer 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.

### **12.2.4 Variations of the Performance Standards**

If an Applicant desires any Variation from the requirements of the Performance Standards, a written request therefor shall be submitted to the City prior to the submittal of the Development Project which incorporates the requested Variation and, in the case of a building permit for a Use-by-Right, the Variation request shall also be approved by the City prior to submittal of the Development Project which incorporates the requested Variation. A letter from the Centerra DRC stating its approval of such Variation shall accompany the written request. In the alternative, the Director is authorized to evaluate and approve Variations concurrently with the Centerra DRC's review and approval of the Variation. In the granting of a request for a Variation of the Performance Standards, the Director shall find that the implementation of the requested Variation would

not pose a health, safety or welfare risk to the general public and that: (i) the proposed Variation is equal to or better than the provision of the Performance Standards sought to be varied; (ii) the application of the provision sought to be varied would create a site specific hardship (other than a financial hardship) on the Applicant; or (iii) the proposed Variation reflects a design solution or a distinct recognized architectural style that is appropriate for the project and results in the quality of the project being equal to or better than the result of complying with the Performance Standard sought to be varied. Decisions of the Director on a request for a Variation of a Performance Standard shall be issued in writing no later than seven (7) days after submission of the complete application therefor. In the event that the Director denies a requested Variation, 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.

### **12.2.5 Development Contiguity**

In the event that a proposed Development Project fails to meet the contiguity requirements of the Master Plan, the Director shall, in his or her sole discretion, be authorized to administratively grant an exception to the contiguity requirements upon the Applicant's submission in writing of a request and justification therefor and upon finding that the provision of utilities and roads to the proposed Development Project have been, or are planned to be, sufficiently sized to meet the service needs of such project, and of the other adjacent areas as the Director determines to be affected, in an efficient manner and at no cost to the City, unless the City has agreed to share in such costs.

Requests for exceptions to the contiguity requirements of such Master Plan shall be submitted to the Director and a decision thereon shall be made by the



Director no later than seven (7) days after submission of the request and prior to submittal of the Development Project. Decisions of the Director on requests for exceptions to the contiguity requirements may be appealed by the Applicant therefor pursuant to Section 12.4.1.

In the event that the City amends the contiguity requirements of such Master Plan to be less restrictive, the Applicant shall be entitled to apply the less restrictive requirements to its proposed Development Project.

## 12.3 REVIEW PROCESS

### 12.3.1 Centerra DRC Review

A. With the exception of applications for Preliminary Plats, Development Projects within the GDP (including applications for a Variation, Type 1 Zoning Permit, Type 2 Zoning Permit, building permit, sign permit, Minor Subdivision, combined Preliminary Plat and Final Plats, Final Plats and Special Review Uses) 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 and a copy of the documents reviewed by the Centerra DRC and upon which its recommendation was made.

B. Applications for Preliminary Plats shall be accompanied by a written preliminary evaluation from the Centerra DRC that the Preliminary Plat complies with the GDP.

C. Development Projects which incorporate a Variation or Variations from the applicable Performance Standards shall also be accompanied by a letter from the Centerra DRC that states its recommendation for final approval of the requested Variation, with or without conditions, and a copy of the documents relied upon by the Centerra DRC in taking such actions. In the event that the Director ap-

proves the Variation request concurrently with the Centerra DRC review, the Development Project shall also be accompanied by the written decision of the Director.

D. The Centerra DRC may assign certain review and decision-making responsibilities to a subcommittee of the Centerra DRC and, for residential Development Projects and Variations, it may assign its review and decision-making responsibilities to another designated residential design review committee, provided that such subcommittee is comprised of the same number and type of members as required for the Centerra DRC and that the City has been given written notice of such assignment.

E. The City shall take into consideration the statement of the Centerra DRC regarding compliance with the GDP, but the City shall have the right and responsibility to determine each Development Project's compliance with applicable provisions of all Controlling Documents and the Municipal Code.

### 12.3.2 Complete Application

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 ("Complete Application"):

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

3. The Applicant has submitted the documentation from the Centerra DRC as required by Section 12.3.1; and
4. The Applicant has paid all required fees for the type of development application(s) being submitted.

Submittal Checklists for Uses-by Right, Special Review Uses and subdivision plats will be approved, and may be modified, administratively by the Director upon the agreement of Developer without amending the GDP.

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, in his or her sole discretion, shall be based upon the similarity of 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, in the discretion of the Director, similar in character to a specifically listed Use-by-Right or Special Review Use shall not be permitted.

### 12.3.3 Development Projects

#### A. Uses-by-Right

The land use legends on Maps 4, 5, 6 and 7 of the GDP 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 plat;
- (iv) Those submitted with a Major Subdivision plat consisting of a Preliminary Plat followed by a Final Plat; and
- (v) Those submitted with a Major Subdivision plat consisting with a combined Preliminary and Final Plat.

(b) Development Projects for Uses-by-Right subject to Administrative Review shall not be preceded by a pre-application conference unless requested by the Director or the Applicant, nor shall they require a Development Review Team Meeting as defined in the Municipal Code or review and approval by the Planning Commission or City Council.

#### 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 (v) below shall be preceded by a conceptual review team meeting and thereafter 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' 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 nonphased project which includes a combined gross square footage of 500,000 non-residential square feet or more and the first Development Project within a Mixed Use Village Center which center includes a combined gross square footage of 500,000 non-residential square feet or more shall be preceded by a conceptual review team meeting and thereafter shall be subject to Public Review in accordance with the Review Timeline therefor, which process requires public hearings before the Planning Commission and the City Council. The first Development Project within a Mixed Use Village Center which center includes a combined gross square footage of 500,000 non-residential square feet or more shall be accompanied with Performance Standards for Mixed Use Village Centers which shall be incorporated

into the GDP through the Major Amendment process concurrently with the first Development Project within a Mixed Use Village Center. Thereafter, all Development Projects within any Mixed Use Village Center shall be processed in accordance with the provisions of this Section 12 that are applicable to such subsequent Development Projects.

(c) The Public Review processes for the uses listed in (a) and (b) above shall include a neighborhood meeting and public hearings. 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. 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 development plan as defined in the following paragraph.

(d) Public Review by the Planning Commission and the City Council pursuant to these Regulatory Procedures shall be limited to a review of the context diagram, site plan, landscape plan and architectural elevations, 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 on Maps 4, 5, 6 and 7 of the GDP 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 a Type 2 Zoning Permit.
2. The Review Timelines for the Type 2 Zoning Permit process 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 Minor Subdivision plat;
  - (iv) Those submitted with a Major Subdivision plat consisting of a Preliminary Plat followed by a Final Plat; and
  - (v) Those submitted with a Major Subdivision plat consisting of a combined Preliminary Plat and Final Plat.
3. Development Projects for Special Review Uses may, at the option of the Applicant or the Director, be preceded by a pre-application conference.
4. Special Review Uses shall be evaluated for compliance with the GDP and those applicable special review criteria of the Municipal Code (currently Chapter 18.40) which are not inconsistent with the GDP.
5. An application for a Special Review Use shall be accompanied with a listing of the names and addresses of the owners as set forth in Section 12.3.7.A.1. All such owners and all current members of the Planning Commission and City Council

shall be mailed written notice by the Current Planning Division of the Director's administrative decision on such application within five (5) days of such decision, which notice shall include the name of the Development Project and the location of the property, the substance and date of the Director's decision, and notice of the right to appeal such decision pursuant to Section 12.4.4.

## **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 applicable Type 2 Zoning Permit 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 when a Building permit is not required shall be processed in accordance with the Review Timelines for a Type 1 Zoning Permit.

## **E. Other Allowed Processes**

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 Municipal Code. In such event, the Applicant shall comply with all applicable submittal and processing requirements of the Municipal Code therefor. Notwithstanding that any parcel of property is rezoned out of the GDP and is then subject to another development procedure permitted by the Municipal Code, any such project shall be subject to the Performance Standards of the GDP and the development application therefor shall be accompanied by a letter of recommendation from the Centerra DRC and a copy of the documents reviewed by the Centerra DRC.



## **F. Final Execution of Documents**

The City shall execute all final documents and submit for recording, as applicable, within fourteen (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 Subdivision Plats**

#### **A. Administrative Review**

1. All applications for subdivision plats (including applications for Minor Subdivisions, Preliminary Plats, Final Plats and combined Preliminary Plats and Final Plats) 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 subdivision plat unless otherwise required by State statute, or by a Special Condition of this GDP or in event that the administrative decision on the subdivision plat is appealed as provided herein.

2. An application for a subdivision plat that is not accompanied by an application for a Development Project shall be subject to the Review Timeline therefor.

3. The Review Timelines for subdivision plats have separate requirements for:

- (i) a Boundary Line Adjustment or lot merger;
- (ii) a Minor Subdivision plat;
- (iii) a Major Subdivision plat consisting of a Preliminary Plat followed by Final Plat; and
- (iv) a Major Subdivision plat consisting of a combined Preliminary Plat and Final Plat.

4. If an application for a subdivision plat is accompanied by an application for a Development

Project containing Uses-by-Right and/or Special Review Uses, the applicable Review Timelines described in Section 12.3.3 shall apply.

5. An application for a Major Subdivision plat shall be preceded by a conceptual review team meeting, however, an application for a subdivision plat shall not require a Development Review Team Meeting or its equivalent, unless the Applicant or the Director determines that a Development Review Team Meeting is necessary considering the size or complexity of the project.

6. An application for a Major Subdivision plat consisting of either a Preliminary Plat or a combined Preliminary Plat and Final Plat shall be accompanied with a listing of the names and addresses of the owners as set forth in Section 12.3.7.A.1 and a listing of the names and addresses of the owners of all easements on the property proposed for development as evidenced by an ownership and encumbrance report provided by the Applicant. All such owners and all current members of the Planning Commission and City Council shall be mailed written notice by the Current Planning Division of the Director's administrative decision on such application within five (5) days of such decision, which notice shall include the name of the Development Project and the location of the property, the substance and date of the Director's decision, and notice of the right to appeal such decision pursuant to Section 12.4.3.A.

#### **B. Replats**

In the event a subdivision 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 shall be shown as an Outlot on the subdivision plat which shall require replatting prior to City approval of any Development Project within such Outlot. If an Outlot is replatted as a Minor Subdivision, it shall not

be subject to any waiting period set forth in the Municipal Code. Lots and Tracts also shall not be subject to any such waiting period provided that the Director determines, in his or her sole discretion, that the replat of a Lot or Tract through a Minor Subdivision process would not contravene the purposes of the City's subdivision requirements or would not be contrary to the best interests of the City.

### **C. Final Execution of Documents**

The City shall execute the plat mylars and any other final documents and submit for recording, as applicable, within fourteen (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.

### **12.3.5 Building Permits**

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

A. Applications for nonresidential building permits may only be submitted concurrently with a re-submittal of a subdivision plat application or after approval and recordation of the Final Plat.

B. Applications for residential building permits will only be accepted by the City for processing after approval and recordation of the Final Plat.

C. Building permits shall only be issued after the installation of adequate infrastructure improvements to be determined in the discretion of the Director in accordance with General Condition No. 9 and the requirements of the Municipal Code (currently Sections 16.40.010.A and B) which are not in conflict therewith.

### **12.3.6 Review Timelines**

A. The Review Timelines will be approved, and may be modified, administratively by the Director upon the agreement of the Developer without amending the GDP.

B. The City shall use its best efforts to limit the review period for Development Projects within the GDP to the timeframes set forth on the approved Review Timelines, and the Applicant shall comply with the applicable Review Timelines.

B. The Review Timelines are meant to be maximum limits 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, it 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.

D. Notwithstanding the commitment of the City and the Applicant to comply with the Review Timelines, such timeframes may be extended in any of the following circumstances:

1. The City Manager determines that there are circumstances which justify an extension of time for the City staff's review of a Development Project, in which case a written notice shall be provided to the Applicant stating the extended period of time deemed necessary by the City for completion of its review; or

2. The Applicant fails to resubmit its Development Project within the timeframes set forth in the Review Timelines resulting in a reschedul-





ing by the Director of the subsequent review and resubmittal timeframes. The Director shall use his best efforts to reschedule the timeframes for the application to the earliest possible dates which are next available in accordance with the remainder of the applicable Review Timeline.

E. In the event that the City adopts amendments to the procedural requirements of the Municipal Code 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. At least fifteen (15) days prior to any hearing required by these Regulatory Procedures, public notification shall be given of the date, time and place of the hearing, the nature of the matter to be considered at the hearing, a description of any property directly affected by the subject matter of the hearing and the telephone number of the City's Current Planning Department, as follows:

1. The Applicant shall provide the City with a listing of the names and addresses of all owners of record of: (i) the property proposed for development; and (ii) all properties that fall wholly or partially within the areas set forth in subparagraph A.3 of this section. The names and addresses required under (i) above shall include fee simple owners as evidenced by an ownership report provided by the Applicant. The names

and addresses required under (ii) above shall be as they appear on the latest Larimer County Records;

2. The City shall publish the required notice in the City's newspaper of record and mail notice to the Applicant and the owners of record of the property proposed for development;

3. The Applicant shall send by first class mail written notice to all surface owners of record of all properties located within the following areas: (i) within a 1000-foot radius of the boundaries of the proposed Development Project if the project includes more than 50 acres; (ii) within a 750-foot radius of the boundaries of the proposed Development Project if the project includes 20 or more acres but no greater than 50 acres, or (iii) within a 500-foot radius of the boundaries of the proposed Development Project if the project includes less than 20 acres; and

4. The Applicant shall post a sign or signs (with the content approved by the City) on the property which is the subject of the hearing in a location that is readily visible from each public street or highway adjoining the property.

Prior to the public hearing, the Applicant shall provide the City with an affidavit certifying that the Applicant's requirements of this Section 12.3.7.A have been met. Failure to provide the required affidavit or evidence of a defective mailing list or posting will result in termination of project review until proper notice is provided.

The public notice requirements of this 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, which shall be noticed in accordance with Section 12.3.8 hereof.

B. At least ten (10) days prior to any neighborhood meeting required by these Regulatory Procedures, the Applicant shall give written notice by first class mail to all owners of all properties that fall wholly or partially within the applicable area set forth in Section 12.3.7.A.1. The notice shall include the date, time and place of the neighborhood meeting, a description of any property directly affected by the subject matter of the neighborhood meeting and a telephone number of the City's Current Planning Department. The Applicant shall provide the City with an affidavit certifying that the Applicant conducted the neighborhood meeting and that the requirements of this Section 12.3.7.B were met. Failure to provide the required affidavit or evidence of a defective mailing list will result in termination of project review until proper notice is provided and the neighborhood meeting is conducted.

C. Public notice of the Director's administrative decision of a Preliminary or a combined Preliminary Final Plat shall be in accordance with Section 12.3.4 A 6.

### **12.3.8 Mineral Estate Owner Notification**

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.

## **12.4 APPEALS**

### **12.4.1 Performance Standard Variations/Exceptions to Development Contiguity Requirements/Uses-by-Right subject to an Administrative Review/Boundary Line Adjustments/Lot Mergers/Minor Subdivision Plats/Final Plats/Minor Amendments**

A. Third party Appeals are not permitted with regard to the Director's administrative decision on an

application for a Variation of the Performance Standards, an exception to the development contiguity requirements, a Development Project containing a Use-by-Right subject to Administrative Review, a Boundary Line Adjustment, a lot merger, a Minor Subdivision plat or a Final Plat or a Minor Amendment.

B. In the event, however, that the Director denies any such application, or approves any such application with conditions that are not acceptable to the Applicant, the Applicant shall have the limited 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.

C. Appeals of an administrative decision of the Director shall be filed in writing with the Current Planning Division within ten (10) days of the mailing of the Director's decision. The Planning Commission shall hold a hearing on the Appeal within thirty (30) days of the filing of the Appeal and shall either reverse, modify or uphold the Director's decision. 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 hearing shall be given to the Applicant at least fifteen (15) days before the hearing. The Director may adopt supplementary administrative procedures for such Appeals which are not in conflict 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 Paragraph D. below.



D. Appeals of a decision of the Planning Commission shall be filed in writing with the Current Planning Division within ten (10) days of the Planning Commission's decision. The City Council shall hold a hearing on the Appeal within thirty (30) days 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 hearing shall be given to the Applicant at least fifteen (15) days before the hearing 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 pursuant to Section 12.3.3.A.2(a) may be appealed to the City Council by the Applicant, any owner of property located within the area subject to the notification requirements of Section 12.3.7.A, or three or more members of the City Council. 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 Preliminary Plats/Combined Preliminary and Final Plats**

A. The administrative decision of the Director on an application for a Preliminary Plat or a combined Preliminary Plat and Final Plat may be appealed to the Planning Commission by the Applicant, any owner of property located within the area subject to the notification requirements of Section 12.3.7.A, three or more Planning Commission members or three or more members of the City Council. 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 ac-

cordance with the requirements of Section 12.3.7.A and, in addition, the Applicant shall provide such notice of the Appeal hearing to the list of easement owners described in Section 12.3.4.A.6.

B. A decision of the Planning Commission pursuant to Section 12.4.3.A may be appealed to the City Council by the Applicant, any owner of property located within the area subject to the notification requirements of Section 12.3.7.A, or three or more members of the City Council. 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 and, in addition, the Applicant shall provide such notice of the Appeal hearing to the list of easement owners described in Section 12.3.4.A.6.

#### **12.4.4 Special Review Use Approvals**

The administrative decision on a Type 2 Zoning Permit may be appealed to the Planning Commission by the Applicant, any owner of property located within the area subject to the notification requirements of Section 12.3.7.A, any person that appeared at the neighborhood meeting, three or more Planning Commission members or three or more members of the City Council. 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.

A decision of the Planning Commission on a Type 3 Zoning Permit may be appealed to the City Council by the Applicant, any owner of property located within the area subject to the notification requirements of Section 12.3.7.A, any person that appeared at the neighborhood meeting or three or more members of the City Council. The process for any such Appeal shall be the process described herein at Sec-

tion 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**

For purposes of these Regulatory Procedures, any of the following amendments to this GDP constitute a Major Amendment: (a) permit a use not identified in a GDP Parcel or Subparcel as a Use-by-Right, a Special Review Use, or a use approved by the Director pursuant to Section 12.3.2.B of the Regulatory Procedures; (b) decrease the amount of commonly-owned, but not dedicated, open space within the GDP by more than ten percent (10%); (c) change any requirement for the payment of money or the dedication of land or other property rights to the City or the public; (d) materially relocate any public facility or improvement; (e) increase residential density by more than five percent (5%) in any GDP Parcel; and (f) increase nonresidential Building square footage by more than five percent (5%) in any GDP parcel (“Major Amendment”). A Major Amendment shall be subject to review and approval by the Planning Commission and City Council in accordance with the applicable section of the Municipal Code [currently Section 18.41.050.D(11)], except that public notice of the hearings and neigh-

borhood meeting shall be given in accordance with the requirements of Section 12.3.7.A and B. 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 are any amendments to this GDP which do not meet the definition of a Major Amendment described in Section 12.5.1.B above (“Minor Amendments”). Minor Amendments shall be administratively reviewed 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 Approved Plans or Sub-division 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 Type 2 Zoning Permit or Type 3 Zoning Permit shall be reviewed in accordance with the applicable section of the Municipal Code (currently Section 18.40.050.A or Section 18.40.050.B), except that public notice of



any required hearing shall be given in accordance with Section 12.3.7.A.

**C. Subdivisions Plats**

Proposed modifications or amendments to an approved Preliminary Plat, Final Plat or Minor Subdivision plat shall be processed in accordance with the same process by which the plat was approved.