

TABLE 5-1 SUMMARY OF DEVELOPMENT REVIEW PROCEDURES					
Application Type	Pre-Application Conference?	Role of Recommending (R), Decision-Making (DM) and Appeal (A) Bodies			Public Notice Required? ¹
		Staff	Planning Comm.	Town Council	
Interpretation (Sec. 16A-1-70)	Optional	DM		A	No
Amendment to Text of Development Code (Sec. 16A-5-210) or to the Official Zone District Map (Sec. 16A-5-220)	Optional	R	R	DM	Yes (for Town Council second reading of ordinance)
PUD Sketch Plan (Sec. 16A-5-320)	Mandatory	R	R	DM	Yes (for joint meeting and for Town Council resolution)
PUD Preliminary Plan (Sec. 16A-5-340)	Mandatory	R	R	DM	Yes (for Planning Commission and Town Council)
PUD Final Plan (Sec. 16A-5-360)	Optional	R		DM	No
PUD Amendment (Sec. 16A-5-390)	Mandatory for Minor or Major	DM R	R	DM	Yes (for Minor and Major)
Special Review (Sec. 16A-5-230)	Mandatory	R ²		DM ²	Yes (for staff or Town Council) ²
Variance (Sec. 16A-5-240)	Optional	R	DM	A	Yes (for Planning Commission)
Administrative Modification (Sec. 16A-5-250)	Optional	DM ²		A	Yes ³
Zoning Plan Review (Sec. 16A-5-270)	Optional	DM ²		DM/A	No
Subdivision Exemption (Article V, Division 5)	Optional	R		DM	No
Subdivision (Article V, Division 4)	Mandatory	R	R	DM	Yes (for Planning Commission)
Subdivision Amendment (Sec. 16A-5-450)	Mandatory for Minor and Major	DM R		DM	Yes for Minor and Major
Annual Temporary Use (Sec. 16A-5-260)	Mandatory	R	R	DM	Yes (for Town Council)
Administrative Temporary Use (Sec. 16A-5-260)	Optional	DM		A	No

Notes:

1. Public notice shall be given as specified in Section 16A-5-60, Notice of Public Hearings.
2. Staff is the primary decision-making body for administrative modification, zoning plan and special review applications. However, the staff may refer any administrative modification to the Planning Commission or special review application to the Planning Commission and Town Council if issues arise whereby the Planning Director deems referral to be appropriate. In such cases, action shall be by the Planning Commission at a public hearing for administrative modifications, at a regular meeting by the designated decision-making body, being either the Planning Commission or Town Council, for zoning plan reviews or by the Town Council at a public hearing for special review.
3. Required notice shall be given as noted in Table 5-2.

Sec. 16A-5-30. Pre-application conference.

(a) General. At the pre-application conference the applicant may confer with the Planning Director to obtain information and guidance as to the Town's development procedures and standards. Table 5-1, Summary of Development Review Procedures, lists the application types for which a pre-application conference is mandatory and those for which it is optional. It shall be the applicant's responsibility to schedule the pre-application conference.

(b) Purpose of Pre-Application Conference. The purpose of the pre-application conference is to determine, in general, what provisions of this Development Code apply to the proposed development.

(c) Contents of Pre-Application Conference. Items to be discussed during the pre-application conference include the following:

(1) Applicant's proposal. The applicant should provide a verbal description of the proposed development, accompanied by a survey, site plan or other map that illustrates the property's boundaries and the applicant's initial development concepts. The applicant should also provide a general indication of when the application is likely to be submitted.

(2) Review procedure. The Planning Director should identify the procedures that will apply to the proposed development, including which decision-making body or bodies will review the application, whether public notice will be required and the sequence of actions and the likely time required to complete the development review process.

(3) Review agencies. The Planning Director should identify those agencies that will review the development application. Upon request, the Planning Director shall provide the applicant with the names of contact persons at these agencies.

(4) Application contents. The Planning Director should describe the materials required to be submitted as part of the development application, provide any applicable Town application forms, identify the number of copies of the application to be submitted and indicate the fee for the development application.

(d) Written Summary. Upon request by the applicant, the Planning Director shall, within seven (7) calendar days, issue a written summary of the specific procedures and information requirements for the project. (Ord. 4-1998 §1; Ord. 15-2000 §1)

Sec. 16A-5-40. Submission of application.

(a) Authorization. A development application may only be submitted to the Planning Department by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

(1) Owner's permission. If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application. If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by the other owners, or an association representing the owners, consenting to or joining in the development application.

(b) Minimum Contents. The development application shall include the information and materials specified for that particular type of application in the applicable section of this Article V. In addition, all development applications shall, at a minimum, include the following information and materials:

(1) Name, address, telephone number and power of attorney. The applicant's name, address and telephone number. If the applicant is to be represented by an agent, a letter signed by the applicant granting power of attorney to the agent shall be submitted, authorizing the agent to represent the applicant and stating the representative's name, address and phone number.

(2) Legal description. The legal description and street address, if such exists, of the parcel on which development is proposed.

(3) Disclosure of ownership. A current certificate from a title insurance company or attorney licensed in the State which shall set

forth the names of all owners of property included in the application and shall include a list of all mortgages, judgments, liens, contracts, easements or agreements of record that affect the property. At the Town's option, the holders or owners of such mortgages, judgments, liens, contracts, easements or agreements of record may be required to consent to the application before it is acted upon by the Town.

(4) Written description. A written description of the proposal and an explanation, in written, graphic or model form, of how the proposed development complies with the review standards applicable to the application, found in the applicable section of this Article V.

(5) Vicinity map. An eight and one-half inch by eleven inch (8½" x 11") vicinity map locating the subject parcel within the Town.

(6) Other maps. All other maps required for the application shall be prepared at a scale of one inch equals one hundred feet (1" = 100') or larger, on sheets no larger than thirty inches by forty-two inches (30" x 42"), with an unencumbered margin of one and one-half inches (1.5") on the left hand side of the sheet and one-half inch (0.5") around the other three (3) sides of the sheet. Sheets of twenty-four by thirty-six inches (24" x 36") are preferred. If it is necessary to place information on more than one (1) sheet, an index shall be included on the first sheet. Report-size versions of all maps, reduced to a sheet size of no greater than eleven inches by seventeen inches (11" x 17"), shall also be submitted.

(7) Base fee. The application shall be accompanied by the applicable base fee from the Planning Department's fee schedule. The fee schedule shall be established and may be

revised from time-to-time by the Planning Director. The fee schedule shall be available for review in the Planning Department during normal business hours.

a. Actual fee. The actual review fee shall be computed by the Planning Director, based upon a staff hourly rate determined by the Planning Director to be an estimate of the fully allocated hourly cost of review of the application by the Town staff, plus the actual costs incurred by the Town in employing consultants, including attorneys and engineers, performing services for the Town directly related to the application.

b. Reimbursement due. The applicant shall reimburse the Town for such amounts in excess of the base fee as determined by the Planning Director. The reimbursement to the Town by the applicant shall be due and payable within fifteen (15) days of the date of billing.

(c) Consolidation. The Town's development review process is intended to encourage efficient processing of applications. Applicants may request, and the Planning Director may permit, the consolidated submission and review of all necessary development applications for a parcel of land. The Planning Director is authorized to waive any overlapping submission requirements in the consolidated review. (Ord. 4-1998 §1; Ord. 15-2000 §1; Ord. 16-2010 §1)

Sec. 16A-5-50. Staff review of application.

(a) Determination of Completeness. The Planning Director shall determine whether the application is complete and includes information in sufficient detail to determine whether it complies with the applicable substantive standards of this Development Code. The Planning Director

shall endeavor to make said determination and notify the applicant accordingly within fifteen (15) days of receiving the application.

(1) Incomplete application. If the application is not complete, the Planning Director shall inform the applicant of the deficiencies in writing within fifteen (15) days and shall take no further action on the application until the deficiencies are remedied. The Town Council, upon the recommendation of the Planning Director, may authorize the waiver or deferral of the requirement to submit certain application items if determined that they are not necessary to commence review of the application. The authorization of the waiver or deferral request by the Town Council shall occur by adopting a resolution at a regularly scheduled meeting and shall reserve the right for the Town to require that any material initially waived or deferred may be required to be submitted by the applicant at any time during the review process if needed to evaluate the applicant's proposal. If the applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn and returned to the applicant.

(2) Complete application. If the application is complete, the Planning Director shall certify as complete, determine the required number of copies of the submission documents to be submitted and assign the application an agenda date with the applicable review body. Unless not required by the Planning Director, the applicant shall also submit the application material in an acceptable digital form for distribution and archival storage.

(3) Completeness is not a determination of compliance. A determination that an application is complete shall not constitute a determination that it complies with the substantive standards of this Development Code.

(b) Staff Review. Within thirty (30) days from the date of the completeness determination, the Planning Director shall review the development application to determine its conformance with the requirements of this Development Code. The Planning Director may solicit the professional analysis and recommendations of any other agency, organization or technical consultant deemed appropriate and necessary to complete the review, such as: (1) members of the Town staff; (2) county, state or federal entities having an interest in or authority over the proposed development or any portion thereof; (3) utility companies, special service districts serving the proposed development and the school district; and (4) engineers, designers and legal consultants.

(c) Report. Prior to the date of the review body meeting, the Planning Director shall compile a written report that sets forth how the application complies with, or does not comply with, the applicable standards of this Development Code. At least three (3) days prior to the first public review of the application, the Planning Director shall distribute a copy of the report to each member of the review body and to the applicant, and shall make the report available to the public. (Ord. 4-1998 §1; Ord. 15-2000 §1; Ord. 16-2010 §1)

Sec. 16A-5-60. Notice of public hearings.

(a) Notice Required. Table 5-1, Summary of Development Review Procedures, identifies the types of land development applications that require a public hearing, and at what step during the review process that hearing shall occur. Public notice shall be provided for each application type that is listed as requiring notice to be given. Notice shall be provided as specified below.

(b) Manner and Timing of Notice. Public notice shall be given by publication of notice in the newspaper, mailing of notice to property

owners surrounding the subject property and posting of notice on the property, as specified herein. The number of days prior to the hearing that each type of notice must be given is summarized in Table 5-2, Timing of Required Public Notices.

(1) Publication of notice. Publication of notice shall be accomplished by the staff, who shall place a legal notice in a newspaper of general circulation in the Town. The legal notice shall state the date, time, location and purpose of the public hearing, and the name of the decision-making body conducting the hearing and shall be published once.

(2) Mailing of notice. Mailing of notice shall be accomplished by the applicant. The notice that the applicant shall mail shall be prepared by the Planning Director and provided to the applicant. Notice shall be sent by first class mail to all property owners located wholly or in part within three hundred (300) feet of the subject property. In certain circumstances involving larger parcels, the Planning Director may define the three-hundred-foot notification boundary to be measured from the perimeter of the proposed project or area within the property being affected by the proposed development, rather than being measured from the entire property boundary.

a. Source of list. The applicant shall compile the list of property owners to whom notice will be mailed by using the most current list of property owners on file with the County Tax Assessor.

b. Contents of mailed notice. The notice that is mailed shall contain the following information:

1. Description of proposal. A description of the proposed application, including a reference to the Code section under which the application

will be processed and the name of the decision-making body that will conduct the hearing. An exhibit depicting the proposed development shall also be included.

2. Description of property. A description of the subject property.

3. Date time and place. The date, time and place of the public hearing for which notice is being given.

4. Map amendment. If the application is for an amendment to the Official Zone District Map, a map illustrating the proposed amendment shall be included with the mailed notice. The notice shall state what the present zoning is and what the new zoning will be and shall set forth the dimensional limitations for the proposed zone, as established in this Code.

TABLE 5-2
Timing of Required Public Notices

<i>Application Type</i>	<i>Days Prior to Hearing That Public Notice Must Be Given</i>		
	<i>Published</i>	<i>Mailed</i>	<i>Posted</i>
Amendment to Comprehensive Plan	30	No	No
Interpretation	No	No	No
Amendment to Text of Development Code	15	No	No
Amendment to Official Zone District Map	15	15	15
PUD Sketch Plan (Planning Commission)	10 ¹	No	No
PUD Sketch Plan (Town Council)	10	10	10
PUD Preliminary Plan	30	30	15
PUD Final Plan	No	No	No
PUD Amendment	15	30 (Major) 15 (Minor)	15
Special Review	15	15	15
Variance	30	30	15
Administrative Modification	No	15 ²	No
Subdivision Exemption	No	No	No
Subdivision	30	30	15
Subdivision Amendment	15	15	15
Annual Temporary Use	15	No	15
Administrative Temporary Use	No	No	No
Comprehensive Sign Plan	15	15	No

¹ No public hearing occurs before the Planning Commission; the required public notice is for the joint meeting, pursuant to Section 16A-5-320(c)(4), Joint Meeting.

² Mailed notice shall be by United States mail postage prepaid.

5. Subdivision. If the application is for approval of a subdivision, the notice shall specify the proposed types of uses and gross residential density.

6. Additional hearings. The written notice shall also state that additional public hearings may be held before the Planning Commission and/or Town Council at later dates, for which only published notice shall be required, and shall indicate that additional information regarding the proposal is available for inspection at the Town offices during normal business hours.

7. Contact person. The address and telephone number of the Planning Department, and the name of the person to whom written comments should be directed prior to the public hearing.

(3) Posting of notice. Posting of notice shall be accomplished by the applicant. The applicant shall prepare and use a form approved by the staff. The applicant shall enter onto the sign the date, time, location and purpose of the public hearing, and the name of the decision-making body conducting the hearing. The applicant shall post the sign in a conspicuous location on the subject property.

a. Dimensions. The dimensions of the sign shall be not less than twenty-two inches wide by twenty-six inches high (22" x 26"). Lettering on the sign shall be not less than one (1) inch in height.

b. Materials. The materials to which the notice form is affixed shall be sturdy and waterproof or shall have a waterproof

covering. The applicant shall maintain the sign in a legible manner until the closure of the public hearing and shall remove it on the day following closure of the public hearing.

(4) Validity of notice. If the applicant follows the procedures indicated above in good faith, the failure of any particular property owner to receive notice shall not affect the validity of the proceedings which require such notice. By way of example, notice shall not be considered invalid because of unrecorded or subsequent transfers of title, or uncertainties concerning ownership not discernible from the tax assessment rolls.

(5) Proof of notice. At or before the actual public hearing, the applicant shall provide the Town with an affidavit certifying that notice was posted. A copy of the list of property owners to whom notice was mailed shall be attached to the affidavit. A photograph of the posted sign shall also be attached to the affidavit. (Ord. 4-1998 §1; Ord. 6-1999 §1; Ord. 10-1999 §1; Ord. 11-1999 §3; Ord. 15-2000 §1; Ord. 32-2004 §A-5; Ord. 16-2010 §1)

Sec. 16A-5-70. Action by decision-making body.

The decision-making body shall comply with the following procedures in taking action on the development application.

(1) Site inspection. As part of its consideration of the development application, the decision-making body may, as a group or through a committee appointed for that purpose, inspect the site of the proposed development. Upon reasonable request by the Planning Director, the applicant shall mark

the development site before the site visit is to occur to locate property boundaries, building envelopes and other key site development features.

(2) Conduct of public hearing. A public hearing shall be conducted in accordance with the following procedures:

a. Rights of all persons. Any person may appear at a public hearing and submit evidence, either individually or as a representative of an organization.

b. Order of proceedings. The order of the proceedings shall be as follows:

1. Description. The Planning Director shall present a narrative and/or graphic description of the application and a staff report on the application, which includes a written recommendation.

2. Applicant presentation. The applicant shall be prepared to present any information that has been previously submitted in the application or that is pertinent to the review body's consideration of the application. The Chairman conducting the public hearing may define the scope, topical nature and time frame within which the presentation shall be given. The burden shall be on the applicant to demonstrate through competent evidence that the application complies with all applicable provisions of this Development Code.

3. Public testimony. Public testimony shall be heard.

4. Applicant response. The applicant may respond to any testimony or evidence presented by the public.

5. Staff response. The Planning Director and any other staff member may respond to any statement made by the applicant or the public.

c. Exclusion of testimony. The Chairman conducting the public hearing may exclude testimony or evidence that is found to be irrelevant, immaterial or unduly repetitious. If any testimony or evidence is so excluded, the person offering such testimony or evidence shall have an opportunity to make a proffer in regard to such testimony or evidence for the record. Such proffer shall be made at the public hearing.

d. Continuance of public hearing. The body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time and place. An applicant shall have the right to request and be granted one (1) continuance. All subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.

e. Withdrawal of application. An applicant shall have the right to withdraw an application at any time prior to the action on the application by the decision-making body.

f. Record of public hearing. The body conducting the public hearing shall record the public hearing by any appropriate means, including transcription,

audiotape or videotape. The written or taped record of oral proceedings, including testimony and statements of personal opinions; the minutes of the Clerk; all applications, exhibits and papers submitted in any proceeding before the decision-making, administrative or advisory body; the staff report and the decision of the body shall constitute the record.

(3) Amendment. If an applicant wishes to amend a submission after a Planning Commission recommendation thereon, such request shall be made in writing and presented to the Town Council during the public hearing. The Town Council shall consider and make a determination as to whether the changes alter the nature of the project from that described in the original submission to such an extent that:

a. The amendment should not be allowed;

b. The amendment should be allowed, but the Planning Commission should have an opportunity to review the amendment and make a recommendation thereon; or

c. The amendment should be allowed, and the application should proceed without additional hearings or consideration thereof. If the amendment is not allowed, the Town Council shall continue to consider the application without the amendment in accordance with the provisions of this Section. If an additional Planning Commission recommendation is to be made, the Town Council may, at its discretion, table the application until it has received the Planning Commission's recommendation on the amendment.

Remand. An application may also be remanded to the Planning Commission when the Town Council determines that the application as amended has otherwise been altered in a significant manner following the Planning Commission's action on the preliminary PUD. The Town Council shall table the application until it has received the Planning Commission's recommendation on the changes.

(4) Action. After hearing the evidence and considering the comments of all persons interested in the matter, the decision-making body shall make its decision and findings and have them entered in its minutes. The decision-making body shall not be required to take final action on an application during the same meeting when testimony from interested persons is taken, but action shall be taken as promptly as is reasonable.

a. Findings. In its findings, the decision-making body shall report the facts, whether the application complies with the applicable review standards, and whether the application is approved, approved with conditions, recommended for approval by another body, tabled pending receipt of additional information or denied.

b. Copy to applicant. A copy of the decision-making body's decision shall be provided to the applicant within a reasonable period of time after the decision has been made.

(5) Re-application. An applicant may not resubmit an application for a project having been denied by a decision-making body for a period of one (1) year from the

date when said action was taken, unless there has been a clear, substantial and material change in the conditions or circumstances affecting the subject parcel and the surrounding neighborhood that supports reconsideration, as determined by the Planning Director, or where the new application substantively amends the project so as to essentially constitute a new development proposal.

(6) Inactive applications. The decision-making body may deny any application that remains inactive. An application may be deemed inactive and be denied when the moving the application towards final approval.

a. Determination of inactivity. A project shall be considered inactive if more than two (2) months have passed since a written request for additional information was made by the Planning Director or the review body, and the request has not been complied with, or more than three (3) months have passed since the last official contact between the applicant and the decision-making body.

b. Written notice. The Planning Director shall provide written notice, fifteen (15) days in advance, to the applicant stating the time, place and date when the decision-making body will consider denial of the application due to its inactivity. (Ord. 4-1998 §1; Ord. 15-2000 §1; Ord. 5-2001 §1; Ord. 16-2010 §1)

Sec. 16A-5-80. Appeals.

(a) General. Table 5-1, Summary of Development Review Procedures, identifies those types of actions by decision-making bodies that may be appealed. Appeals of actions by decision-making bodies shall comply with the following procedures.

(b) **Written Appeal.** An appeal of an action by a decision-making body shall be submitted in writing to the Planning Director within fifteen (15) days after the date of the decision being appealed. The written appeal shall state the basis of the appeal in detail, and the relief that is requested, and shall include any materials or evidence to support the appeal.

(c) **Standing to Appeal.** The following persons shall be deemed to have standing to submit an appeal:

(1) **Applicant.** The applicant or the owner of the property;

(2) **Person who testified.** Any parties in interest who testified at the public hearing on the application; or

(3) **Person who submitted written comments.** Any parties in interest who submitted written comments on the application before final action was taken, excluding persons who only signed petitions or form letters.

(d) **Procedure.** The appeal shall be heard by the body authorized to hear the appeal at a regularly scheduled meeting within thirty (30) days after the date of the filing of the written appeal. The Planning Director shall inform the applicant, the appellant, and anyone who testified at the public hearing or submitted written comments on the application of the date, time and place of the meeting. The body hearing the appeal shall either affirm, affirm with modifications or reverse the original action. The original action shall only be modified or reversed if it is determined that: (1) there is not substantial evidence in the record to support the original decision, or (2) the original action was inconsistent with the applicable provisions of this Land Use and Development Code. The decision of the appellate body shall be final and shall not be further appealed, but may be subject to review by the courts pursuant to law. (Ord. 4-1998 §1; Ord. 15-2000 §1)

Sec. 16A-5-90. Vested property rights.

(a) **General.** Consistent with the provisions of Section 24-68-101 *et seq.*, C.R.S., a vested property right shall attach to and run with the applicable real property upon the approval of a site specific development plan.

(b) **Site Specific Development Plan.** A site specific development plan, for the purpose of vesting a property right under Section 24-68-102(4), C.R.S., shall specifically include the following:

(1) **Final PUD plan.** A final planned unit development plan approved pursuant to Article V, Division 3, Planned Unit Development.

(2) **Subdivision.** A final plat of a subdivision approved pursuant to Article V, Division 4, Subdivision Regulations.

(3) **Special review.** A special review use approved pursuant to Section 16A-5-230, Special Review.

Where none of the foregoing approvals is required by the nature of an application for any land use approval, the final approval granted by resolution of the Town Council shall be deemed a site specific development plan, except that under no circumstances shall a variance be deemed to be a site specific development plan. Furthermore, the establishment of a zoning designation or a zone district with respect to any real property, either original or by an amendment to the Official Zone District Map or to the text of this Development Code, shall not constitute a site specific development plan, unless the amendment is approved simultaneously with any of the specific types of approvals listed above.

(c) **Conditional Approval.** Approval of a site specific development plan may be made with or without condition, and the failure to fully abide by the terms of any conditional approval will result in a forfeiture of a vested property right.

(d) **Term of Vested Right.** Rights which have been vested as provided herein shall remain so vested for a period of three (3) years, unless extended by the Town Council in its complete discretion on a case-by-case basis. The Town Council shall consider both the needs of the Town and the property owner in determining to extend a vested property right beyond three (3) years. Any such extension shall be in the form of a development agreement duly authorized and executed by the landowner or landowners involved and approved by ordinance. The Town Council may impose reasonable conditions upon any such extension.

(e) **Applicability of Other Town Codes.** The establishment of a vested property right shall not exempt the property owner from requirements for building permits, other necessary permits or other approvals required subsequent to the approval of a site specific development plan. The establishment of a vested property right shall not preclude the application of the requirements of the building code, fire code, plumbing code, electrical code, mechanical code or other requirements necessary for the protection of the public health, safety and welfare.

(f) **Judicial Review.** Approval of a site specific development plan shall be subject to judicial review, and the period of time permitted by law for the filing of any such action shall begin to run from the date of site specific development plan approval.

(g) **Approvals Granted Prior to June 1, 1988.** The provisions of this Section shall not apply to any site specific development plan or other land use approval granted prior to June 1, 1988. The applicable law on the date of such prior approval shall apply to such projects. (Ord. 4-1998 §1; Ord. 15-2000 §1)