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## APPLICATION REVIEW AND DECISION

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### 1.1. PURPOSE

The purpose of this procedure is to provide the basic framework for review and decision of an application. It is during the application review process that the PCD ensures that a Type A or B Application meets the criteria for approval and prepares to approve or deny the request. In the case of a Type C or D Application, the PCD completes a review for conformance with the application regulations and prepares the Application for review and final action by the PCD Director, Planning Commission, Board of Adjustment, or Board of County Commissioners, as appropriate.

### 1.2. PROCEDURE

The application review and decision process involves the evaluation of the technical merits of a project or activity in association with a Type A, B, C, or D Application for compliance with codes, other policy documents, and regulations, and in some cases, consideration of public testimony. This can occur at different times in the process, from the Early Assistance Meeting through project approval or construction. Either the appropriate PCD intake staff or the assigned PCD Planner, functioning as a technical reviewer and as project manager, facilitate processing and the associated technical review for all applications. The primary variable in technical review is to determine if Multi-Disciplinary Team (MDT) support is needed or whether the application can be reviewed exclusively by the PCD intake staff or PCD Planner, as appropriate, or if other expertise is required and how the review is conducted. A determination of conformance and a final decision concerning an application can be made at various levels depending on the nature and processing requirements of the specific application.

### 1.3. GENERAL SUBMITTAL LIST

The submittals are those identified in the procedure governing the specific application and any project specific checklist developed as part of the Early Assistance Meeting process.

### 1.4. PROCESS

#### 1.4.1 Type A Application

- (A) The PCD designee reviews the proposed project or activity to determine if it conforms to County rules, regulations, codes, standards, and ordinances, including any state or federal laws the County is required to enforce.
- (B) No formal referral occurs.
- (C) A decision on the application generally occurs electronically at the time of acceptance of the complete application via EDARP, but may require consultation with or approval from a PCD Planner. The decision may include conditions where necessary.

#### 1.4.2 Type B Application

- (A) The PCD designee may choose to refer the application to all necessary MDT members for review and comment. If the appropriate MDT staff members are available, the PCD Planner, serving as the PCD designee if needed, may assemble an ad-hoc team to perform the technical review of the project with the applicant. When the MDT is gathered, the MDT members will provide review comments, gain clarifications and agreements in the applicant's presence, or provide clarification or clearance, as appropriate.
- (B) The PCD designee and internal MDT members, if any, review the proposed project or activity to determine if it conforms to County rules, regulations, codes, standards, and ordinances, including any state or federal laws the County is bound to enforce.

## APPLICATION REVIEW AND DECISION

- (C) A decision generally occurs electronically at the time of acceptance of the complete application via EDARP by the PCD designee, but may require consultation with or approval from an internal MDT member(s). A decision may take up to 2 or 3 working days to allow for site inspections, if needed. A decision ultimately made by the PCD designee/Planner should, when appropriate, incorporate the review comments of the other MDT members.

### 1.4.3 Type C and Type D Applications

- (A) The assigned PCD Planner is responsible for facilitating the process for approval or denial of a Type C Application.
- (B) The assigned PCD Planner is responsible facilitating the process for approval or denial of a Type D Application, including hearings before the Planning Commission, Board of Adjustment, and/or Board of County Commissioners.
- (C) In the case of a Type C and Type D Application, the application is reviewed by MDT members and often referred to external agencies for review and comment depending on the nature of the application and issues involved. The PCD Planner is responsible for determining who to refer the application to for review and then all comments are transmitted to the applicant electronically via EDARP.
- (D) The PCD Planner and each internal and/or external (if applicable) reviewer will review the proposed project or activity to determine if the proposed project or activity conforms to County rules, regulations, codes, standards, and ordinances and any state or federal laws the County is required to enforce or the external agencies rules and regulations and/or approval by the decision maker.
- (E) All external referral agency comments are due to PCD Planner by the date of established by the PCD Planner at the time of the referral via EDARP. Any failure by a referral agency to provide comments or to otherwise respond to a request for comments within the project-specific comment deadline may, at the discretion of the PCD Director, be interpreted as acceptance or approval of the respective application.

### 1.4.4 Project / Activity Conformance

- (A) In the case of a Type A or B Application, if the application conforms to the applicable standards then the application or permit is approved. The PCD designee or PCD Planner, as appropriate, completes, approves, and provides a copy of the approved application or permit along with any conditions to the applicant via EDARP.
- (B) In the case of a Type C or D Application, if the PCD Director, Board of Adjustment, Planning Commission, or Board of County Commissioners, as appropriate, find that the application is in conformance with the applicable review criteria for the specific application type, then the PCD Planner coordinates obtaining signatures by the approving authorities on the appropriate documents and transmits copies of such approvals, along with any other associated permits and approvals, to the applicant.

### 1.4.5 Project / Activity Non-Conformance

- (A) In the case of a Type A or B Application, if the PCD designee or PCD Planner, as appropriate, determines that the application does not conform to current standards, or the PCD designee or PCD Planner is unsure as to the applications conformance, the PCD designee or PCD Planner may choose to seek technical assistance or hold a meeting with MDT members to make a final determination of conformance.

## APPLICATION REVIEW AND DECISION

- (B) Where the issue or correction can be resolved by a condition, the PCD designee or PCD Planner may, at his or her discretion, impose the condition on the development permit.
- (C) In some cases, it may be impossible or practically difficult to determine conformance of certain aspects of a project. As a result, it may be necessary to have the applicant sign an affidavit acknowledging that the proposal conforms to a specific provision of County codes, rules, regulations, standards or ordinances. Once the affidavit is executed and returned to the PCD designee or PCD Planner, as appropriate, assuming all other aspects of the proposed project or activity conform to the applicable County requirements, the findings are documented and the permit is approved. The PCD designee or PCD Planner completes, approves, and provides a copy of the development permit, which may include the approved application form, along with any conditions to the applicant and a copy of the affidavit.
- (D) Where information provided in the application is inadequate to make a determination of conformance, the PCD designee or PCD Planner shall identify what additional information needs to be submitted. The PCD staff member shall communicate the request to the applicant. When submitted, the staff member shall reroute the additional material to the MDT members requesting the information so that the MDT members may complete their review.
- (E) The PCD staff member will collect and evaluate all agency and adjacent property owners' comments as they are received and forward them to the appropriate MDT members as necessary for evaluation and response. After completing the technical review, the PCD staff member will develop a comprehensive list of deficiencies and identify alternatives that either mitigate the issues or identify if modifications are available to the project that could result in bringing the application into conformance with all applicable requirements.
- (F) Once the PCD designee or PCD Planner completes the review, the PCD designee or PCD Planner, as appropriate, makes a decision concerning the proposed project or activity. If no reasonable modifications can be identified that would bring the proposed project or activity into conformance, the PCD designee or PCD Planner and MDT members shall identify which findings and standards cannot be met and the application shall be denied. The PCD designee or PCD Planner takes a final action on the application or permit indicating the permit has been denied and the basis for denial. The applicant is provided with a copy of the denied application or permit, or a copy of a denial letter in the case of a Type C or D Application, including the basis for denial.
- (G) Once the applicant has been given an opportunity to respond to the list of deficiencies or issues and the MDT has determined that the response is adequate, or if no significant issues are identified, the reviews, findings, comments, mitigation, and conditions are consolidated by the PCD designee or PCD Planner, as appropriate. The PCD staff member completes and signs a copy of the approved application or permit and provides a copy to the applicant along with any conditions of approval.
- (H) For some Type C and Type D Applications, required hearings are scheduled by the PCD Planner in accordance with Planning Commission, Board of Adjustment, or Board of County Commissioners procedures. The decision-making bodies conduct a review of the application, public testimony, evidence presented at the hearing, and staff report and make a decision concerning the proposed application.

**1.5. RESOURCES**

**1.5.1. Applicable Statues and Regulations**

LDC Sections: 2.1.2 and 2.1.3



# Planning and Community Development Department

2880 International Circle, Colorado Springs, CO 80910

Phone 719.520.6300 | Fax 719.520.6695 | [www.elpasoco.com](http://www.elpasoco.com)

## Type C Application Form (1-2B)

Please check the applicable application type (Note: each request requires completion of a separate application form):

- Administrative Relief
- Certificate of Designation, Minor
- Site Development Plan, Major
- Site Development Plan, Minor
- CMRS Co-Location Agreement
- Condominium Plat
- Crystal Park Plat
- Early Grading Request associated with a Preliminary Plan
- Maintenance Agreement
- Minor PUD Amendment
- Resubmittal of Application(s) (>3 times)
- Road or Facility Acceptance, Preliminary
- Road or Facility Acceptance, Final
- Condo/Townhome Plat

Administrative Special Use (mark one)

- Accessory Living Quarters
- Temporary Mining or Batch Plant
- Oil and/or Gas Operations
- Rural Home Occupation
- Tower Renewal
- Kennel
- Other \_\_\_\_\_

Construction Drawing Review and Permits (mark one)

- Approved Construction Drawing Amendment
- Review of Construction Drawings
- Construction Permit
- Major Final Plat
- Minor Subdivision with Improvements
- Site Development Plan, Major
- Site Development Plan, Minor
- Early Grading or Grading
- ESQCP

Minor Vacations (mark one)

- Vacation of Interior Lot Line(s)
- Utility, Drainage, or Sidewalk Easements
- Sight Visibility
- View Corridor

Other: \_\_\_\_\_

This application form shall be accompanied by all required support materials.

**PROPERTY INFORMATION:** Provide information to identify properties and the proposed development. Attached additional sheets if necessary.

|                                |                          |
|--------------------------------|--------------------------|
| Property Address(es):          |                          |
| Tax ID/Parcel Numbers(s)       | Parcel size(s) in Acres: |
| Existing Land Use/Development: | Zoning District:         |

Check this box if any **Waivers** are being requested in association with this application for development and attach a completed Waiver request form.

**PROPERTY OWNER INFORMATION:** Indicate the person(s) or organization(s) who own the property proposed for development. Attached additional sheets if there are multiple property owners.

|                                           |      |
|-------------------------------------------|------|
| Name (Individual or Organization):        |      |
| Mailing Address:                          |      |
| Daytime Telephone:                        | Fax: |
| Email or Alternative Contact Information: |      |

**Description of the request:** (attach additional sheets if necessary):



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**APPLICANT(S):** Indicate person(s) submitting the application if different than the property owner(s) (attach additional sheets if necessary).

|                                           |      |
|-------------------------------------------|------|
| Name (Individual or Organization):        |      |
| Mailing Address:                          |      |
| Daytime Telephone:                        | Fax: |
| Email or Alternative Contact Information: |      |

**AUTHORIZED REPRESENTATIVE(S):** Indicate the person(s) authorized to represent the property owner and/or applicants (attach additional sheets if necessary).

|                                           |      |
|-------------------------------------------|------|
| Name (Individual or Organization):        |      |
| Mailing Address:                          |      |
| Daytime Telephone:                        | Fax: |
| Email or Alternative Contact Information: |      |

**AUTHORIZATION FOR OWNER'S APPLICANT(S)/REPRESENTATIVE(S):**

An owner signature is not required to process a Type A or B Development Application. An owner's signature may only be executed by the owner or an authorized representative where the application is accompanied by a completed Authority to Represent/Owner's Affidavit naming the person as the owner's agent

**OWNER/APPLICANT AUTHORIZATION:**

To the best of my knowledge, the information on this application and all additional or supplemental documentation is true, factual and complete. I am fully aware that any misrepresentation of any information on this application may be grounds for denial or revocation. I have familiarized myself with the rules, regulations and procedures with respect to preparing and filing this application. I also understand that an incorrect submittal may delay review, and that any approval of this application is based on the representations made in the application and may be revoked on any breach of representation or condition(s) of approval. I verify that I am submitting all of the required materials as part of this application and as appropriate to this project, and I acknowledge that failure to submit all of the necessary materials to allow a complete review and reasonable determination of conformance with the County's rules, regulations and ordinances may result in my application not being accepted or may extend the length of time needed to review the project. I hereby agree to abide by all conditions of any approvals granted by El Paso County. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale. I acknowledge that I understand the implications of use or development restrictions that are a result of subdivision plat notes, deed restrictions, or restrictive covenants. I agree that if a conflict should result from the request I am submitting to El Paso County due to subdivision plat notes, deed restrictions, or restrictive covenants, it will be my responsibility to resolve any conflict. I hereby give permission to El Paso County, and applicable review agencies, to enter on the above described property with or without notice for the purposes of reviewing this development application and enforcing the provisions of the LDC. I agree to at all times maintain proper facilities and safe access for inspection of the property by El Paso County while this application is pending.

Owner (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Owner (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Applicant (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# Planning and Community Development Department

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## Type D Application Form (1-2C)

Please check the applicable application type (Note: each request requires completion of a separate application form):

- Appeal
- Approval of Location
- Board of Adjustment
- Certification of Designation
- Const. Drawings, Minor or Major
- Development Agreement
- Final Plat, Minor or Major (Administrative)
- Final Plat, Minor or Major (Hearing)
- Final Plat, Amendment Major
- Final Plat, Amendment Minor
- Minor Subdivision
- Planned Unit Development
- Planned Unit Dev. Amendment, Major
- Combined Planned Unit Development, Preliminary Plan
- Preliminary Plan, Major or Minor
- Rezoning
- Road Disclaimer
- SIA, Modification
- Sketch Plan, Major or Minor
- Sketch Plan, Amendment
- Solid Waste Disposal Site/Facility
- Special District
- Special Use, Major
- Subdivision Exception
- Vacation
  - Plat Vacation with ROW
  - Vacation of ROW
- Variances
  - Major
  - Minor (2<sup>nd</sup> Dwelling or Renewal)
  - Tower, Renewal
- Vested Rights
- Waiver or Deviation
- Waiver of Subdivision Regulations
- WSEO

Other: \_\_\_\_\_

This application form shall be accompanied by all required support materials.

**PROPERTY INFORMATION:** Provide information to identify properties and the proposed development. Attached additional sheets if necessary.

|                                |                          |
|--------------------------------|--------------------------|
| Property Address(es):          |                          |
| Tax ID/Parcel Numbers(s)       | Parcel size(s) in Acres: |
| Existing Land Use/Development: | Zoning District:         |

Check this box if any **Waivers** are being requested in association with this application for development and attach a completed Waiver request form.

**PROPERTY OWNER INFORMATION:** Indicate the person(s) or organization(s) who own the property proposed for development. Attach additional sheets if there are multiple property owners.

|                                           |      |
|-------------------------------------------|------|
| Name (Individual or Organization):        |      |
| Mailing Address:                          |      |
| Daytime Telephone:                        | Fax: |
| Email or Alternative Contact Information: |      |

**Description of the request:** (submit additional sheets if necessary):



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**APPLICANT(S):** Indicate person(s) submitting the application if different than the property owner(s) (attach additional sheets if necessary)

|                                           |      |
|-------------------------------------------|------|
| Name (Individual or Organization):        |      |
| Mailing Address:                          |      |
| Daytime Telephone:                        | Fax: |
| Email or Alternative Contact Information: |      |

**AUTHORIZED REPRESENTATIVE(S):** Indicate the person(s) authorized to represent the property owner and/or applicants (attach additional sheets if necessary).

|                                           |      |
|-------------------------------------------|------|
| Name (Individual or Organization):        |      |
| Mailing Address:                          |      |
| Daytime Telephone:                        | Fax: |
| Email or Alternative Contact Information: |      |

**AUTHORIZATION FOR OWNER'S APPLICANT(S)/REPRESENTATIVE(S):**

An owner signature is not required to process a Type A or B Development Application. An owner's signature may only be executed by the owner or an authorized representative where the application is accompanied by a completed Authority to Represent/Owner's Affidavit naming the person as the owner's agent

**OWNER/APPLICANT AUTHORIZATION:**

To the best of my knowledge, the information on this application and all additional or supplemental documentation is true, factual and complete. I am fully aware that any misrepresentation of any information on this application may be grounds for denial or revocation. I have familiarized myself with the rules, regulations and procedures with respect to preparing and filing this application. I also understand that an incorrect submittal may delay review, and that any approval of this application is based on the representations made in the application and may be revoked on any breach of representation or condition(s) of approval. I verify that I am submitting all of the required materials as part of this application and as appropriate to this project, and I acknowledge that failure to submit all of the necessary materials to allow a complete review and reasonable determination of conformance with the County's rules, regulations and ordinances may result in my application not being accepted or may extend the length of time needed to review the project. I hereby agree to abide by all conditions of any approvals granted by El Paso County. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale. I acknowledge that I understand the implications of use or development restrictions that are a result of subdivision plat notes, deed restrictions, or restrictive covenants. I agree that if a conflict should result from the request I am submitting to El Paso County due to subdivision plat notes, deed restrictions, or restrictive covenants, it will be my responsibility to resolve any conflict. I hereby give permission to El Paso County, and applicable review agencies, to enter on the above described property with or without notice for the purposes of reviewing this development application and enforcing the provisions of the LDC. I agree to at all times maintain proper facilities and safe access for inspection of the property by El Paso County while this application is pending.

Owner (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Owner (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Applicant (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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**BOARD OF ADJUSTMENT HEARING**

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**1.1. PURPOSE**

The purpose of this procedure is to describe the scheduling of applications for review before and action by the Board of Adjustment and the general procedures followed by the Board of Adjustment in hearing and acting on an item (application).

**1.2. DESCRIPTION**

The Board of Adjustment (BOA) is a five (5) voting member volunteer board appointed by the Board of County Commissioners (BoCC).

The Board of Adjustment shall hear and determine appeals of general relief decisions and dimensional variances in accordance with the LDC and C.R.S. § 30-28-118, the Procedures Manual, and as established by Colorado law. The Board of Adjustment's specific authorities are identified in Section 2.2.3(B) of the LDC. In addition to the authorities described in the LDC, the Board of Adjustment shall:

- Regulate the course and decorum of a hearing;
- Rule on procedural matters;
- Rule on the relevance of evidence and testimony;
- Seek the opinion of the County Attorney on legal questions pertaining to any matter before the Board of Adjustment; and
- Take other action necessary to lawfully conduct a hearing.

The Board proposes its own procedures which are set forth in its adopted Bylaws and Procedures, which are adopted by the BoCC. This procedure outlines how the Board operates and how items are brought before the Board. Any conflict between this procedure and the Board's adopted Bylaws and Procedures is unintended, and any such conflict shall result in a deferral to the Board's adopted Bylaws and Procedures.

The PCD serves as the staff for the Board of Adjustment and is responsible for preparing all items for review by the Board of Adjustment, including scheduling items on the agenda, preparing the agenda, and keeping the official records of the Board of Adjustment.

The Board of Adjustment hearings are considered to be quasi-judicial. Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings as they involve the legal rights of specific parties. As such, decisions made as a result of such hearings must be based upon and supported by the "record" developed at the hearing.

**1.3. PROCESS**

**1.3.1. Scheduling a Development Application for Review**

No development application shall be scheduled for hearing before the Board of Adjustment until the PCD Planner determines that the review has been completed, all review comments have been addressed to the maximum extent practicable, and staff has evaluated the merits of the application and prepared the Staff Report. Until all issues have been addressed to the satisfaction of the PCD Planner, the development application will not be scheduled before the Board of Adjustment. If the applicant objects to the application being scheduled for review, the applicant shall work with the PCD Planner to resolve any outstanding issues. This may require the applicant initiate the issue resolution process where a conflict exists that cannot be resolved.

The PCD Director shall have the discretion to determine whether an application intended to resolve a code violation should be delayed from being heard before the Board of Adjustment or if such application requires immediate hearing before the BOA.

When the application is determined to be ready for review by the Board of Adjustment, the PCD Planner shall contact the secretary to the Board of Adjustment to identify the first available Board of Adjustment hearing date that will allow any and all required or courtesy notice to be prepared and provided in accordance with public notice. In scheduling a hearing, due regard will be given primarily to the availability and convenience of the Board and the Secretary and, secondarily, to the availability and convenience of the applicant, known persons in opposition to the application, and other known interested parties (and their representatives or lawyers).

The PCD planner shall provide the secretary with a blurb describing the application. This blurb shall include, at a minimum, a detailed description of the proposed project or activity for the agenda including the name of the applicant, file number, application type, a short description of the project, a description of the location of the property relative to the nearest major intersection, and Assessor's schedule number.

### **1.3.2. Hearings**

The hearing before the Board of Adjustment is an open and public hearing which provides an opportunity for the public to speak in favor or against an application. The purpose of the hearing is for the Board to gather factual information to assist them in formulating their decision. The hearing is not a debate or a question and answer session with the audience. The hearing shall be conducted in accordance with Robert's Rules of Order.

The Board of Adjustment, in conducting a quasi-judicial hearing, shall acknowledge that parties are entitled to an opportunity to appear, in person or by a representative or counsel, to present and rebut testimony and evidence to an impartial approval authority and to have the proceedings recorded.

The objectives of the Board of Adjustment when conducting a hearing are:

- To conduct the proceedings in a fair and efficient manner, allowing the applicants, opponents and other interested parties a reasonable opportunity to present their evidence and express their views without undue, unreasonable, or arbitrary restrictions;
- To ensure that applicants, opponents and other interested parties who are not represented by a lawyer are not prejudiced by that fact, taking affirmative steps to put them at ease, to prevent them from being intimidated either by the proceeding or by lawyers representing others and to assist them, where possible, in complying with these rules and any procedural or evidentiary technicalities;
- To base all decisions on the merits, and not on procedural or evidentiary technicalities, to the extent permitted by applicable law;
- To base all decisions on competent evidence;
- To base all decisions on a reasoned consideration of the terms of the applicable County rules, regulations, codes, standards, and ordinances, providing an explanation of the reasoning at the time, as appropriate, of the decision; and
- To ensure that the applicable County rules, regulations, codes, standards, or ordinances are being enforced and administered in a fair and efficient manner, consistently with prior decisions, but without being strictly limited to such prior

decisions where the facts and conditions of the application warrant, and with any pertinent statement of policy or intent in the applicable County rules, regulations, codes, standards, and ordinances or in the official record of the proceedings leading to its adoption or revision.

The Board of Adjustment Chair conducts the public hearing generally in accordance with the adopted bylaws.

**1.3.3. Recessed or Reopened Hearing**

If a proceeding, once commenced, is recessed for any reason and is to be continued, notice of the date, time, and location at which the proceeding is to be continued shall be given by oral announcement by the Chair at the time the proceeding is recessed.

If a proceeding is reopened for any reason, notice of the date, time, and location at which the proceeding is to be reopened shall be given in the same manner as the original hearing.

**1.3.4. Personal Attendance**

The applicant, opponents, and other interested parties (or their representatives) should appear in person at the proceeding or virtually with prior notice of a minimum of 24 hours being given to the PCD Planner. The Chair may, at his or her discretion, admit written statements into evidence.

**1.3.5. Subpoenas**

The Chair, at his or her sole discretion, shall have the authority to subpoena witnesses and compel the production of evidence in any proceeding: (a) upon his or her own initiative; (b) upon written or oral request of any other Board member participating in that proceeding; or (c) upon the written request of any applicant, opponent, or other interested party participating in the proceeding, for good cause shown in that written request.

**1.3.6. Copies of Legal Authorities To Be Provided**

Where an applicant, opponent, or other interested party (or his, her representative) relies on a judicial or administrative decision or a statute or governmental regulation in support of a position, a separate copy of that decision, statute, or regulation shall be provided for each member of the Board by the applicant, opponent, or other interested party referencing such decision or regulation.

**1.3.7. Private Court Reporters**

No private court reporter will be permitted to transcribe any part of a proceeding unless the person engaging that court reporter agrees, on the record, (a) to provide the Board with a copy of the transcript without charge if an appeal is taken from the Board's decision (regardless of who the appealing party is) and (b) to indemnify and hold the Board and El Paso County government harmless from any costs that may be assessed against either of them on appeal with respect to the expense of such transcript.

**1.4. NOTICE**

Notice shall be provided as required by State law, the LDC, and other County rules, regulations, or ordinances and the public notice requirements associated with the particular application type.

**1.5. FORM OF ACTION**

The Board of Adjustment takes action by resolution which shall include findings and conclusions supporting the action.

**1.6. REFERENCE**

**1.6.1. Applicable Statues and Regulations**

**C.R.S. §30-28-117 and C.R.S. §30-28-118**

LDC Sections: 2.1.2, 2.2.3; and 2.2.4

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**BOARD OF COUNTY COMMISSIONERS (BOCC) HEARING**

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**1.1. PURPOSE**

The purpose of this procedure is to describe the scheduling of development applications for review before and final action by the Board of County Commissioners (BoCC) and the general procedures followed by the Board of County Commissioners in hearing and acting on an item (application).

**1.2. DESCRIPTION**

The Board of County Commissioners is the primary body charged with making decisions concerning all matters related to the orderly growth and development of El Paso County, including applications for approval of sketch plans, planned unit developments (PUD), rezonings, variance of uses, preliminary plans, and all associated major amendments to such applications, as well as any amendments to the County's Land Development Code (LDC). The authority of the Board of County Commissioners to conduct its activities is established by state statute. The manner in which those activities are conducted is established by the BoCC's Legislative and Parliamentary Rules and Procedures, adopted annually. The Board of County Commissioners' specific authorities are identified in Section 2.2.1 of the LDC. In addition to the authorities described in the LDC, the Board of County Commissioners shall:

- Regulate the course and decorum of a hearing;
- Rule on procedural matters;
- Rule on the relevance of evidence and testimony;
- Seek the opinion of the County Attorney on legal questions pertaining to any matter before the Board of County Commissioners; and
- Take other action necessary to lawfully conduct a hearing.

The Board of County Commissioners establishes its own procedures which are set forth in its adopted Legislative and Parliamentary Rules and Procedures. This procedure is intended to outline generally how the Board operates and how items are brought before the Board. Any conflict between this procedure and the Board's adopted Bylaws and Procedures shall be considered unintentional and the Board's Bylaws and Procedures shall prevail for the purpose of resolving such conflicts

The PCD serves to support the Board of County Commissioners with respect to the administration of the LDC and is responsible for preparing all land use related items for review and final action by the Board of County Commissioners and scheduling such items on the BOCC agenda through coordination with the Clerk to the Board.

**1.2.1. Types of Hearings**

**(A) Legislative Public Hearings**

The purpose of a legislative public hearing is to obtain public input on legislative decisions on matters of policy. Legislative public hearings are required for such things as amendments to the Land Development Code where new rules are being established that affect many properties. These public hearings are generally less formal than quasi-judicial public hearings and do not involve the legal rights of specific, private parties in a contested setting, but rather affect a wider range of citizens.

**(B) Quasi-Judicial Public Hearings**

Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings as they involve the determination of legal rights of specific parties through the application of preexisting standards. As such, decisions made as a result of such hearings must be based upon and supported by the record developed at the hearing. Most quasi-judicial hearings include land use matters such as, but not limited to, special use, final plat, rezoning, and preliminary plan applications.

**1.3. PROCESS****1.3.1. Scheduling a Development Application for Review**

No development application shall be scheduled for hearing before the Board of County Commissioners until the PCD Director, in consultation with the assigned PCD Planner and Engineer, determines that the review has been completed and all review comments have been adequately addressed. Until all issues have been addressed to the satisfaction of the PCD Director, the development application will not be scheduled before the Board of County Commissioners. If the applicant objects to the development application not being scheduled for a hearing by Board of County Commissioners then the applicant shall work with the PCD Planner or reviewers to resolve any outstanding issues. In unique instances in which the applicant is unable or for whatever reason unwilling to work with the PCD Planner or reviewers to resolve the outstanding issues, the applicant may seek a final determination on the need to resolve the issue through the issue resolution process, which shall be presided over by the PCD Director and may require technical input from the County Engineer.

When the development application is ready for Board of County Commissioners hearing, the PCD Planner shall work with the PCD Administrative Staff to contact the Clerk to the Board to identify the first available Board of County Commissioners meeting date that will allow any required or courtesy notice to be prepared and provided in accordance with public notice. In scheduling a hearing, due regard will be given primarily to the availability and convenience of the Board and the Secretary and, secondarily, to the availability and convenience of the applicant, known persons in opposition to the application, and other known interested parties (and their representatives or lawyers).

The PCD Planner, through the PCD Administrative Staff, shall provide the Clerk to the Board a blurb describing the application. This blurb shall include, at a minimum, a detailed description of the proposed project or activity for the agenda including the name of the applicant, file number, application type, a short description of the project, a description of the location of the property relative to the nearest major intersection, and Assessor's schedule number. The PCD Planner shall work with the PCD Administrative Staff to provide the Clerk to the Board with a copy of the staff report.

**1.3.2. Limit on Number of Items Heard by Board of County Commissioners**

The Board of County Commissioners may limit the number of development applications that will be heard on any particular hearing date. Complete development applications will generally be scheduled only after all issues have been resolved to the satisfaction of reviewers and the applicant which may include recommended conditions and restrictions to address particular issues or concerns and provide conformity with County rules, regulations, codes, standards and ordinances.

**1.4. NOTICE**

Notice shall be provided as required by State law, the LDC, or other County rule, regulations, or ordinance and the public notice requirements outlined in the specific application type procedures sections contained in this Manual.

**1.5. FORM OF ACTION**

The Board of County Commissioners typically takes action by resolution which shall include findings and conclusions supporting the action.

**1.6. REFERENCE**

**1.6.1. Applicable Statutes and Regulations**

C.R.S. §§30-28-101 et seq.

LDC Sections: 2.1.2 and 2.2.1

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## ADMINISTRATIVE RELIEF

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### 1.1. PURPOSE

The purpose of this procedure is to establish a concise and consistent process for reviewing and approving a request for administrative relief.

### 1.2. BACKGROUND

The LDC establishes uniform standards for the development and use of land. These standards were established to preserve and improve the public health, safety and general welfare of the citizens and businesses of El Paso County including promoting predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural, and development interests and being fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.

The administrative relief provisions of the LDC are intended to provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or development proposal. Administrative relief may be sought where allowed by the LDC. The applicant will need to seek approval of a variance if the application for administrative relief does not conform to the standards for administrative relief or where the PCD Director has determined that administrative relief cannot be granted.

### 1.3. APPLICABLE STATUTES AND REGULATIONS

C.R.S. §30-28-111, 113, and 114 authorizes Boards of County Commissioners to adopt and amend zoning regulations for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lots which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, access to sunlight for solar energy devices, and the uses of land for trade, industry, recreation, or other purposes including methods for the administration of such regulations.

Section 2.1.2 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.2.4 of the LDC establishes the authorities of the PCD Director.

Section 5.5.1 of the LDC establishes the allowance for administrative relief and the conditions under which administrative relief may be granted.

Section 5.5.1(B) of the LDC establishes the specific types of administrative relief that may be granted.

### 1.4. RESOURCES

Not applicable

### 1.5. GENERAL SUBMITTAL LIST

The applicant shall submit the following:

- Site Plan Map or Site Development Plan Map, whichever is required to implement the use (See Table 5-1 and 5-2 of the LDC).

- Evidence of authority to represent the property owner, if the applicant is not the property owner.
- Letter of intent.
- Proof of adjacent property owner notice.
- Any other additional items as required by the PCD Director deemed necessary to ensure compliance with the requirements of the LDC.

## 1.6. STEP BY STEP REVIEW PROCEDURE

### 1.6.1. Summary of Steps

#### (A) Step 1 Early Assistance Meeting

Normally, administrative relief is a secondary component of another type of development application and a separate early assistance meeting is not required. Where administrative relief is requested in advance of filing a separate development application for which the administrative relief is required, an early assistance meeting may be required for both applications at the discretion of the PCD Director.

#### (B) Step 2 Neighborhood Meeting (optional)

Based on the input of neighbors, the applicant may reassess the type of application to file. Significant concern by neighbors about the proposed relief may indicate the need to submit a Type D Development Application to avoid potential delay associated with an appeal.

#### (C) Step 3 Application Submitted

A complete Type C Development Application is required. In choosing to submit a Type C Development Application for administrative relief, the applicant understands that the application is submitted at the applicant's risk since approval is not guaranteed. Regardless of the type of development application with which the administrative relief is associated, the required supporting materials should be submitted by the applicant to the PCD via EDARP. The materials submitted shall include all items listed in Section 1.5 of this procedure and the customized submittal matrix sent to the applicant via EDARP by the PCD Planner. Additional materials should be provided by the applicant as determined necessary by the PCD Director to respond to the criteria for approval for administrative relief.

#### (D) Step 4 Determination of Completeness

#### (E) Step 5 Resubmission of application (if required)

#### (F) Step 6 Application Referral

At the time of referral, the PCD planner sends notice to adjacent property owners in accordance with the public notice and public notice-mailed procedures.

#### (G) Step 7 Comments and Request to Applicant

The PCD planner reviews any review comments and provides them to the applicant via EDARP.

**(H) Step 8 Applicant Submits Information Requested**

**(I) Step 9 Staff Recommended Action**

The PCD planner makes a final determination of conformance of the administrative relief request with the criteria for approval and prepares a letter for review by the PCD Director recommending either approval or denial, with or without conditions, and Step 13 is initiated.

**(J) Step 10 Hearing Scheduled**

Not Applicable

**(K) Step 11 Notice of Hearing**

Not Applicable

**(L) Step 12 Hearing Held**

Not Applicable

**(M) Step 13 Decision Concerning Development Permit**

**(N) Step 14 Development Permit Closeout**

A copy of the PCD Director's decision is provided to the applicant by the PCD planner and is uploaded to EDARP. The decision is mailed to the owner and adjacent property owners. The PCD planner closes the file in EDARP.

**1.6.2. Criteria for Consideration**

**(A) General Requests and Limitations for Administrative Relief**

The PCD Director may only consider an application for administrative relief pursuant to the provisions of the LDC.

**(B) Minor Variations During Platting**

Minor variations from strict application of the provisions of a PUD development plan or conventional zoning district may be allowed at the discretion of the PCD Director in order to facilitate the reasonable and expeditious platting of the property.

**1.6.3. Criteria for Approval**

**(A) General Administrative Relief**

For the PCD Director to grant administrative relief all the applicable criteria in Section 5.5.1 of the LDC shall be met.

**(B) Subdivision Administrative Relief (Variations)**

Variations shall be allowed only after a finding by the PCD Director that:

- The variation does not constitute a substantial change to the allowed land use; and that
- No substantial detriment to the public good, nor harm to the general purpose and intent of the LDC, will be caused thereby.

A variation granted by the PCD Director shall not by itself constitute grounds for disapproval by the BoCC of any final plat unless the BoCC specifically finds that

the variation constitutes a substantial change in the allowed land use or causes a substantial detriment to the public good or harm to the general purpose and intent of the LDC.

**1.7. REVIEW PERIOD**

Administrative relief is classified as a Type C Development Application. The timeline for reviewing a Type C Development Application is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

**1.8. NOTICE**

Notice shall meet the notice requirements of public notice- mailed and shall be completed a minimum of 14 days in advance of the decision.

**1.9. FORM OF ACTION**

Administrative relief shall be considered complete and in effect as of the date of approval of the administrative relief by the PCD Director as evidenced by the PCD Director's signature on the letter approving the administrative relief.

**1.10. EXPIRATION (IF APPLICABLE)**

Administrative relief shall be valid for a period of one year. If the use is not established on the subject property or a building permit is not obtained and construction is not initiated to implement the requested administrative relief within one year of approval of the administrative relief or the plat is not filed for recording, the administrative relief shall expire and a new application shall be required. If the initial building permit expires, the administrative relief approval shall be considered to have expired at the time of expiration of the building permit. If the administrative relief includes a phasing plan, once the first phase is initiated the administrative relief shall be deemed to have no expiration. If the required public improvements are accepted by the County, the administrative relief shall be deemed to have no further expiration.

**1.11. SIMILAR PROCEDURES**

Not applicable

**1.12. TECHNICAL GUIDANCE**

Not applicable

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## ADMINISTRATIVE DETERMINATION

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### 1.1. PURPOSE

The purpose of this procedure is to provide a method or process whereby a property owner may obtain an administrative determination concerning their property and the applicability of the LDC and other rules, regulations, and ordinances administered by the PCD.

### 1.2. BACKGROUND

Often a property owner desires a written statement concerning the application of the LDC or other rules, regulations, and ordinances to their property. As a service to property owners, the PCD may, upon a written request by a property owner, prepare a written statement concerning the zoning and other land use and regulatory restrictions affecting a property. The PCD may only state the restrictions imposed by the LDC and other County rules, regulations, and ordinances that the PCD is responsible for administering; or the provisions of any development agreement, condition, plat, or PUD that may impact the property. An administrative determination is similar to a code interpretation except that it involves the application of the rules, regulations, code, and ordinances to a specific piece of property. A request for a general interpretation of the code without respect to a property shall be handled as a code interpretation. An administrative interpretation is also similar to a zoning compliance letter except that an administrative determination makes no specific statement concerning the conformity of the activities or buildings on the property with the requirements of the LDC and other County rules, regulations, and ordinances the PCD is responsible for administering; or the provisions of any development agreement, condition, plat, or PUD that may impact the property.

A request for an administrative determination shall relate to a specific site, zoning district, use, or application. An administrative determination generally requires analysis and comparison of various LDC provisions to arrive at a decision as opposed to a nondiscretionary review where compliance can be determined based on objective standards.

Three forms of special administrative determinations have been recognized and are processed as special applications. The three forms of administrative determination include: Home Occupation Permits; Group Home, Family Care Homes, and Child Care Permits; and Agricultural Structure Review. In each case, the applicant is informed of the rules governing the use and is required to provide evidence of any required State permitting and/or a letter confirming the operation of their proposed use and intent to comply with the required standards, and the PCD approves the development permit if the property is zoned to allow such use.

### 1.3. APPLICABLE STATUTES AND REGULATIONS

Section 1.6 of the LDC establishes the rules by which the LDC shall be interpreted.

Section 1.6.7 of the LDC provides that the listing of any use as being permitted in a particular zoning district shall be deemed to be an exclusion of the use from any other zoning district in which the use is not listed. For uses not listed in any zoning district, an administrative determination concerning whether the use is allowed within the zoning district may be requested.

Section 5.1.6 of the LDC provides that when a use is expressly defined in the LDC, or when a use is categorized by an administrative determination, similar uses which are not listed or defined shall fall within the same category of use by character, descriptor, and intensity as determined by the PCD Director.

Section 2.2.4 of the LDC defines Administrative Determination as the process used by the PCD Director to decide a written request to interpret the provisions of this Code or in issuing any other written interpretation of this Code. An administrative determination of the provisions of this Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of this Code. A request for an administrative determination shall relate to a specific site, zoning district, use or application. An administrative determination of this Code issued by the PCD Director shall have the same effect as any provision of this Code. An administrative determination of this Code remains in effect until rescinded in writing by the PCD Director, until such time as the administrative determination is overturned on appeal, or until such time as an amendment to the Code results in a change affecting the administrative determination. An administrative determination generally requires analysis and comparison of various code provisions to arrive at a decision as opposed to a nondiscretionary review where compliance can be determined based on objective standards.

Section 2.1.4 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.1.4 of the LDC establishes the authorities of the PCD Director including the authority to interpret the LDC.

Section 2.2.1(H) of the LDC allows the Board of County Commissioners to hear appeals and interpret the LDC on appeal.

Section 5.1.6 allows the PCD Director to classify any unlisted use based on similar uses. If no similar use can be identified by the PCD Director, the PCD Director may initiate an amendment to the text of the LDC to clarify where the unlisted use is allowed, or the applicant for an unlisted use may file an application to amend the LDC following the prescribed procedures.

Section 5.1.3 and 5.1.4 and the associated Table 5-1 and 5-2 establish the general uses allowed by right, as special uses, as temporary uses, and as accessory uses.

#### **1.4. RESOURCES**

Not applicable

#### **1.5. GENERAL SUBMITTAL LIST**

The applicant shall submit the following:

- Letter specifying the nature and request of the administrative determination.
- Any other additional items as required by the PCD Director deemed necessary to ensure compliance with the requirements of the LDC.

#### **1.6. STEP BY STEP REVIEW PROCEDURE**

##### **1.6.1. Summary of Steps**

###### **(A) Step 1 Early Assistance Meeting**

Not Applicable

###### **(B) Step 2 Neighborhood Meeting**

Not Applicable

**(C) Step 3 Application Submitted**

**(D) Step 4 Determination of Completeness**

**(E) Step 5 Resubmission of Application (if required)**

**(F) Step 6 Application Referral**

**(G) Step 7 Consolidation of Comments and Request to Applicant**

The PCD planner researches the provisions of the LDC; other County rules, regulations, and ordinances the PCD is responsible for administering; or the provisions of any development agreement, condition, plat, or PUD in relationship to the applicant's specific request. The PCD planner may conduct a site visit to assist in their review.

If based on the research conducted and any site visit, the PCD planner determines that more information is needed from the applicant in order to prepare the determination, a request is made via EDARP to the applicant concerning the specific information needed. If no additional information is required, Step 9 is initiated.

**(H) Step 8 Applicant Submits Information Requested**

**(I) Step 9 Staff Report and Recommended Action**

The PCD planner prepares a written administrative determination addressing the applicant's request.

**(J) Step 10 Hearing Scheduled**

Not applicable

**(K) Step 11 Notice of Hearing**

Not applicable

**(L) Step 12 Hearing Held**

Not applicable

**(M) Step 13 Decision Concerning Development Permit**

The letter is reviewed and signed by the PCD Director. A copy of the administrative determination is uploaded to EDARP and provided to the applicant by the PCD planner.

**(N) Step 14 Development Permit Closeout**

The PCD planner closes the file via EDARP.

**1.6.2. Criteria for Consideration**

An administrative determination may be requested by any property owner, tenant of a property, or a mortgage company or lending institution with an interest in a property.

### **1.6.3. Criteria for Approval**

#### **(A) Administrative Use Determination**

A use not specifically identified as an allowed use, special use, temporary use, or accessory use shall not be allowed unless the PCD Director determines the use is similar to an expressly allowed use, special use, temporary use, or accessory use. The uses allowed in each zoning district or overlay zoning district are identified in Chapter 5 of the LDC.

No determination shall authorize any use in a zoning district or overlay zoning district unless the PCD Director determines the use is substantially similar to an allowed use, special use, temporary use, or accessory use in the zoning district or overlay zoning district. The PCD Director may only make a determination of a similar use if it meets the following criteria:

- The function, performance characteristics, and/or location requirements of the unlisted use shall be consistent with the purpose and description of the zoning district where it is proposed;
- The unlisted use is compatible with the uses specifically allowed in the district, and similar or less in impacts and characteristics such as traffic and parking generation, noise, glare, vibration, and dust.

No determination by the PCD Director shall have the effect of circumventing, amending, abrogating, or waiving any other standard or requirement established by the LDC.

### **1.7. REVIEW PERIOD**

An administrative determination is classified as a Type C Development Application. The timeline for reviewing a Type C Development Application is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

### **1.8. NOTICE**

Not Applicable

### **1.9. FORM OF ACTION**

An administrative determination shall be considered complete and in effect as of the date the determination is uploaded to EDARP.

### **1.10. EXPIRATION (IF APPLICABLE)**

An administrative determination of the LDC remains in effect until rescinded in writing by the PCD Director, until such time as the administrative determination is overturned on appeal, or until such time as an amendment to the LDC results in a change affecting the administrative determination.

### **1.11. SIMILAR PROCEDURES**

Not applicable

### **1.12. TECHNICAL GUIDANCE**

An administrative determination shall be prepared in association with a specific property.

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**APPEAL TO THE BOARD OF ADJUSTMENT (BOA)**

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**1.1. PURPOSE**

The purpose of this procedure is to establish a consistent process for submission and review of an appeal to the Board of Adjustment of a written administrative determination or administrative action of the PCD Director as specifically provided for by Section 5.5.2(B)(1) and 2.2.3(B)(2) of the LDC.

**1.2. BACKGROUND**

The LDC establishes uniform standards for the development and use of land. These standards were established to preserve and improve the public health, safety and general welfare of the citizens and businesses of El Paso County including promoting predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests and being fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.

The administrative determination provisions are designed to allow the PCD Director to interpret the LDC. The LDC specifically authorizes an administrative determination to classify uses of property which are not expressly identified as one of the land uses authorized in a zoning district or overlay zoning district, or defined by the LDC. An administrative determination may also be used by the PCD Director to interpret the LDC as it applies to a specific piece of property. In addition, the LDC delegates to the PCD Director various administrative permitting and enforcement action.

The Board of Adjustment may only specifically hear appeals authorized by C.R.S. § 30-28-118 and Section 5.5.2.(B)(1) of the LDC (See Section 1.3 of this procedure). Generally, where the administrative determination takes the form of a written code interpretation regarding use or a general code interpretation, the code interpretation may only be appealed to the Board of County Commissioners (pursuant to this Procedures Manual) except when the code interpretation or action by the PCD Director involves a dimensional standard. Where an applicant for administrative determination, alleged violator or any other party is aggrieved by an administrative determination or enforcement action of the PCD Director relating to a nonconforming lot determination, administrative relief request, interpretation of a dimensional development standard, setback interpretation, the aggrieved party, as defined by the LDC, may appeal the administrative determination to the Board of Adjustment. An appeal may result from the inability to secure a building permit, site plan approval, or site development plan approval for failure to meet specific standards of the LDC. Where the administrative determination, code interpretation, or action involves a dimensional standard it may be appealed to the Board of Adjustment as a Dimension Variance or Appeal to the Board of Adjustment (pursuant to this Procedures Manual) application.

**1.3. APPLICABLE STATUTES AND REGULATIONS**

C.R.S. §§30-28-111, 113, and 114 authorize Boards of County Commissioners to adopt and amend zoning regulations for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other

## APPEAL TO THE BOARD OF ADJUSTMENT

purposes, access to sunlight for solar energy devices, and the uses of land for trade, industry, recreation, or other purposes including methods for the administration of such regulations.

C.R.S. §30-28-118(1) authorizes the Board of Adjustment to take appeals by any person aggrieved by an inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning resolution. Appeals to the Board of Adjustment may be taken by any officer, department, board, or bureau of the county affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of the zoning resolution.

C.R.S. §30-28-118(1)(b) does not allow the Board of Adjustment to hear an appeal for building use violations that may be prosecuted pursuant to C.R.S. §30-28-124(1)(b), which states in pertinent part that it is unlawful to use any building, structure, or land in violation of any regulation in, or of any provision of, any zoning resolution, or any amendment thereto, enacted or adopted by the Board of County Commissioners.

C.R.S. §30-28-118(2) specifically grants the Board of Adjustment the following powers: (a) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of the zoning resolution; (b) To hear and decide, in accordance with the provisions of any such resolution, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such resolution to pass; and (c) Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this part 1 would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, to authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning resolutions. In determining whether difficulties to, or hardship upon, the owner of such property exist, as used in this paragraph (c), the adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980, may properly be considered. Regulations and restrictions of the height, number of stories, size of buildings and other structures, and the height and location of trees and other vegetation shall not apply to existing buildings, structures, trees, or vegetation except for new growth on such vegetation.

Section 5.3.6 of the LDC defines administrative determination as the process used by the PCD Director to decide a written request to interpret the provisions of this Code or in issuing any other written interpretation of this Code. The interpretation of the provisions of a concomitant agreement will be treated as an interpretation of this Code. An administrative determination of the provisions of this Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of this Code. A request for an administrative determination shall relate to a specific site, zoning district, use or application. An administrative determination of this Code issued by the PCD Director shall have the same effect as any provision of this Code. An administrative determination of this Code remains in effect until rescinded in writing by the PCD Director, until such time as the administrative determination is overturned on appeal, or until such time as an

amendment to the Code results in a change affecting the administrative determination. An administrative determination generally requires analysis and comparison of various code provisions to arrive at a decision as opposed to a nondiscretionary review where compliance can be determined based on objective standards

Section 2.1.4 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.2.1.(H) of the LDC gives the Board of County Commissioners the power to interpret and hear appeals to the LDC as to the type, nature and rights of uses, conforming and nonconforming, as allowed under the LDC. Except for those procedures expressly prescribed for appealing of certain administrative decisions to the Board of Adjustment, all interpretations or applications by the PCD Director as they relate to uses under this Code and believed to be erroneous or inapplicable may be appealed to the Board of County Commissioners. Violations of use restrictions shall only be heard by the Board of County Commissioners as specifically limited by the LDC.

Section 2.2.3.B(2) of the LDC gives the Board of Adjustment the authority to hear an appeal of an administrative determination (including code interpretation) where the administrative determination of the PCD Director is related to a nonconforming lot determination, interpretation of a dimensional development standard, or setback interpretation. Violations of use restrictions shall be not be heard by the Board of Adjustment as specifically limited by C.R.S. §30-28-124 (1)(b).

Section 2.2.4 of the LDC establishes the authorities of the PCD Director.

Section 5.5.2.(A) of the LDC provides for any person aggrieved, as defined by the LDC, by the inability to obtain a building permit or by any order, requirement or decision made by an administrative officer or agency in the administration, interpretation or enforcement to appeal to the Board of Adjustment.

Section 5.5.2.(B)(1) of the LDC limits the Board of Adjustment's appeal authority to appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by the PCD pertaining to the application or enforcement, under the LDC, of:

- A zoning district's development requirements or a use standard relating to physical dimension, structural location, or bulk limitation;
- Nonconforming building provisions;
- Nonconforming lot or parcel or merger by contiguity provisions;
- Parking and development requirements;
- Landscape requirements;
- On-premise signs (dimensional, location, and number requirements only) provisions, and off-premise sign separation distances;
- Distance separation requirements required for daycare applications;
- Appeal of an action regarding administrative relief;
- Determination of wildfire hazard or zoning district boundary;
- Any other matter appealable to the Board of Adjustment under the provisions of the LDC.

Section 5.3.5 of the LDC establishes the basis for administrative determinations and code interpretations generally.

**1.4. RESOURCES**

Not applicable

**1.5. GENERAL SUBMITTAL LIST**

The applicant shall submit the required number of each of the following:

- Where the appeal involves a specific property, the Letter of Intent shall be accompanied by a Development Application Map Exhibit.
- Copy of the administrative determination or enforcement action and all original application materials, if applicable.
- Proof of ownership, which may include a copy of the deed or affidavit of ownership.
- Evidence of authority to represent the property owner, if applicant is not the property owner.

**1.6. STEP BY STEP REVIEW PROCEDURE**

**1.6.1. Summary of Steps**

**(A) Step 1 Early Assistance Meeting (Optional)**

**(B) Step 2 Neighborhood Meeting (Optional)**

**(C) Step 3 Application Submitted**

**(D) Step 4 Determination of Completeness**

**(E) Step 5 Resubmission of Application (if required)**

**(F) Step 6 Application Referral**

**(G) Step 7 Consolidation of Comments and Request to Applicant**

The comments are received and provided to the applicant via EDARP. The PCD planner determines whether additional information must be provided to ensure the Board of Adjustment has adequate information for review of the appeal. The PCD planner transmits the comments to the applicant for response. The applicant or PCD may request a conference at this point to discuss the issues identified. If a conference is requested, the PCD planner schedules a meeting with appropriate agency representatives. If criteria can be met and all necessary material has been submitted, Step 9 is initiated.

**(H) Step 8 Applicant Submits Information Requested**

**(I) Step 9 Staff Report and Recommended Action**

**(J) Step 10 Hearing Scheduled**

**(K) Step 11 Notice of Hearing**

**(L) Step 12 Hearing Held**

**(M) Step 13 Decision Concerning Development Permit**

The Board of Adjustment either upholds or reverses the PCD Director's administrative decision. The decision including any reasons for the decision is documented in the record.

**(N) Step 14 Development Permit Closeout**

A copy of the decision is uploaded to EDARP by the PCD planner. If the PCD Director's decision is reversed, the administrative determination record is corrected by the PCD planner. The appeal is filed in the appeal file and a copy of the decision is placed in the original development application, or administrative decision file. The original development application is maintained on EDARP with a copy of the decision.

**1.6.2. Criteria for Consideration**

Only an aggrieved party, as defined in the LDC, may submit an appeal. An application for an appeal must be made within 30 days after the PCD Director makes a written decision on the matter being appealed. The 30 days shall start to run the date the decision is uploaded to EDARP.

The Board of Adjustment may only consider an application for appeal where an official written administrative determination has been prepared by the PCD Director or a development permit has been denied by the PCD Director. The appeal must involve a nonconforming lot determination, interpretation of a dimensional development standard, setback interpretation, and/or the aggrieved party alleges that the PCD Director has made an error in interpretation of the LDC. More specifically, in accordance with Section 5.5.2.(B)(1) of the LDC, the appeal shall involve:

- The development requirements of the zoning district or a use standard relating to physical dimension, structural location, or bulk limitation;
- Nonconforming building provisions;
- Nonconforming lot or parcel or merger by contiguity provisions;
- Parking and development requirements;
- Landscape requirements;
- On-premise signs (dimensional, location, and number requirements only) provisions, and off-premise sign separation distances;
- Distance separation requirements required for daycare applications;
- Appeal of an action regarding administrative relief;
- Determination of wildfire hazard or zoning district boundary;
- Any other matter appealable to the Board of Adjustment under the provisions of the LDC.

If the decision is appealable to the Board of Adjustment, the decision is not appealable to the Board of County Commissioners; however, all decisions not appealable to the Board of Adjustment shall be considered appealable to the Board of County Commissioners.

**1.7. REVIEW PERIOD**

An appeal is classified as a Type D Development Application. The timeline for reviewing a Type D Development Application is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

**1.8. NOTICE**

Notice to adjoining property owners is not required, but may occur at the discretion of the PCD Director. If the PCD Director determines notice is required, notice shall meet the notice requirements of public notice.

**1.9. FORM OF ACTION**

An appeal shall be considered final as of the date of decision by the Board of Adjustment. The appeal may be acted on by motion or resolution and is only appealable to District Court. A negative decision by the Board is not a final action for judicial review purposes if the disputed matter could be resolved by the appellant through a separate application process.

**1.10. EXPIRATION (IF APPLICABLE)**

Not Applicable

**1.11. SIMILAR PROCEDURES**

Not applicable

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**APPEAL TO THE BOARD OF COUNTY COMMISSIONERS (BOCC)**

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**1.1. PURPOSE**

The purpose of this procedure is to establish a consistent process for submission and review of an appeal to the Board of County Commissioners of a written administrative determination, code interpretation, or administrative action of the PCD Director. It does not apply to those appeals specifically authorized for review by the Board of Adjustment pursuant to C.R.S. §30-28-118 and Sections 5.5.2(B)(1) and 2.2.3(B)(2) of the LDC.

**1.2. BACKGROUND**

The LDC establishes uniform standards for the development and use of land. These standards were established to preserve and improve the public health, safety and general welfare of the citizens and businesses of El Paso County including promoting predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests and being fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.

The administrative determination provisions are designed to allow the PCD Director to interpret the LDC. The LDC specifically authorizes an administrative determination to classify uses of property which are not expressly identified as one of the land uses authorized in a zoning district or overlay zoning district or defined by the LDC. An administrative determination may also be used by the PCD Director to interpret the LDC as it applies to a specific piece of property. In addition, the LDC delegates to the PCD Director various administrative permitting and enforcement actions.

The Board of County Commissioners hears any appeal not specifically authorized to be heard by the Board of Adjustment by C.R.S. §30-28-118 and Section 5.5.2.(B)(1) of the LDC (See Section 1.3 of this procedure). The Board of County Commissioners' authority to hear appeals is broadly defined pursuant to Section 2.2.1.(H) of the LDC. Where the administrative determination takes the form of a written code interpretation regarding use or a general code interpretation, the code interpretation may only be appealed to the Board of County Commissioners except when the code interpretation or action by the PCD Director involves a dimensional standard, which is heard by the Board of Adjustment. Where an applicant for administrative determination, alleged violator or any other party is aggrieved by an administrative determination of the PCD Director relating to a nonconforming lot determination, interpretation of a dimensional development standard, setback interpretation, or enforcement, the aggrieved party, as defined in the LDC, may appeal the administrative determination to the Board of Adjustment. Where the administrative determination, code interpretation or action involves a dimensional standard it may be appealed to the Board of Adjustment as a Dimension or Numeric Relief Standard Relief application.

An appeal to Board of County Commissioners is most commonly of a general nature, but it may result in an interpretation which is applicable to a specific property or occur in conjunction with the processing of a development application.

**1.3. APPLICABLE STATUTES AND REGULATIONS**

C.R.S. §§30-28-111, 113, and 114 authorize Boards of County Commissioners to adopt and amend zoning regulations for the regulation by districts or zones of the location, height, bulk, and

## Appeal to the Board of County Commissioners

size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, access to sunlight for solar energy devices, and the uses of land for trade, industry, recreation, or other purposes including methods for the administration of such regulations.

C.R.S. §§30-28-124 (1)(b).

Section 1.6.7 of the LDC provides that the listing of any use as being permitted in a particular zoning district shall be deemed to be an exclusion of the use from any other zoning district in which the use is not listed. For uses not listed in any zoning district, an administrative determination concerning whether the use is allowed within the zoning district may be requested.

Section 5.1.6 of the LDC provides that when a use is expressly defined in the LDC, or when a use is categorized by an administrative determination, similar uses which are not listed or defined shall fall within the same category of use by character, descriptor, and intensity as determined by the PCD Director.

Section 2.2.4 of the LDC defines administrative determination as the process used by the PCD Director to decide a written request to interpret the provisions of this Code or in issuing any other written interpretation of this Code. The interpretation of the provisions of a concomitant agreement will be treated as an interpretation of this Code. An administrative determination of the provisions of this Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of this Code. A request for an administrative determination shall relate to a specific site, zoning district, use or application. An administrative determination of this Code issued by the PCD Director shall have the same effect as any provision of this Code. An administrative determination of this Code remains in effect until rescinded in writing by the PCD Director, until such time as the administrative determination is overturned on appeal, or until such time as an amendment to the Code results in a change affecting the administrative determination. An administrative determination generally requires analysis and comparison of various code provisions to arrive at a decision as opposed to a nondiscretionary review where compliance can be determined based on objective standards.

Section 2.1.4 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.2.1.(H) of the LDC gives the Board of County Commissioners the power to interpret and hear appeals to the LDC as to the type, nature and rights of uses, conforming and nonconforming, as allowed under the LDC. Except for those procedures expressly prescribed for appealing of certain administrative decisions to the Board of Adjustment, all interpretations or applications by the PCD Director as they relate to uses under this Code and believed to be erroneous or inapplicable may be appealed to the Board of County Commissioners. Violations of use restrictions shall only be heard by the Board of County Commissioners as specifically limited by the LDC.

Section 2.2.4 of the LDC establishes the authorities of the PCD Director.

Section 5.1.3 and 5.1.4 and the associated Table 5-1 and 5-2 of the LDC establish the general uses allowed by right, as special uses, as temporary uses, and as accessory uses.

Section 5.1.6 of the LDC allows the PCD Director to classify any unlisted use based on similar uses. If no similar use can be identified by the PCD Director, the PCD Director may initiate an

amendment to the text of the LDC to clarify where the unlisted use is allowed, or the applicant for an unlisted use may file an application to amend the LDC following the prescribed procedures.

Section 5.3.6 of the LDC establishes the basis for administrative determinations and code interpretations generally.

Section 5.5.2.(A) of the LDC provides for any person aggrieved by the inability to obtain a building permit or by any order, requirement or decision made by an administrative officer or agency in the administration, interpretation or enforcement may appeal to the Board of Adjustment.

**1.4. RESOURCES**

Not applicable

**1.5. GENERAL SUBMITTAL LIST**

The applicant shall submit the following:

- Where the appeal involves a specific property, the Letter of Intent shall be accompanied by a Development Application Map Exhibit.
- Copy of the administrative determination or enforcement action and all original application materials, if applicable.
- Proof of ownership, which may include a copy of the deed or affidavit of ownership.
- Evidence of authority to represent the property owner, if applicant is not the property owner.

**1.6. STEP BY STEP REVIEW PROCEDURE**

**1.6.1. Summary of Steps**

- (A) Step 1 Early Assistance Meeting**
- (B) Step 2 Neighborhood Meeting (Optional)**
- (C) Step 3 Application Submitted**
- (D) Step 4 Determination of Completeness**
- (E) Step 5 Resubmission of Application (if required)**
- (F) Step 6 Application Referral**
- (G) Step 7 Consolidation of Comments and Request to Applicant**

The comments are received and sent onto the applicant via EDARP. The PCD planner determines whether additional information must be provided to ensure the Board of County Commissioners has adequate information for review of the appeal. The PCD planner transmits the comments to the applicant for response. The applicant or PCD may request a conference at this point to discuss the issues identified. If a conference is requested, the PCD planner schedules a meeting with appropriate agency representatives. If criteria can be met and all necessary material has been submitted, Step 9 is initiated.

**(H) Step 8 Applicant Submits Information Requested**

**(I) Step 9 Staff Report and Recommended Action**

**(J) Step 10 Hearing Scheduled**

**(K) Step 11 Notice of Hearing**

**(L) Step 12 Hearing Held**

**(M) Step 13 Decision Concerning Development Permit**

The Board of County Commissioners either upholds or reverses the PCD Director's administrative decision. The decision including any reasons for the decision is documented in the record.

**(N) Step 14 Development Permit Closeout**

A copy of the decision is uploaded to EDARP by the PCD planner. If the PCD Director's decision is reversed, the administrative determination record is corrected by the PCD planner. Any enforcement action is modified, as necessary, or the decision on any applicable development permit is finalized or adjusted based on the decision. The appeal is filed in the appeal file and a copy of the decision is uploaded into the EDARP file for the development application or administrative decision file. A copy of original development application is maintained on EDARP with a copy of the decision.

#### **1.6.2. Criteria for Consideration**

Only an aggrieved party, as defined in the LDC, may submit an appeal. An application for an appeal must be made within 30 days after the PCD Director makes a written decision on the matter being appealed. The 30 days shall start to run the date the decision is uploaded to EDARP.

#### **1.7. REVIEW PERIOD**

An appeal is classified as a Type D Development Application. The timeline for reviewing a Type D Development Application is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

#### **1.8. NOTICE**

Notice to adjoining property owners is not required but may occur at the discretion of the PCD Director. If the PCD Director determines notice is required, notice shall meet the notice requirements of public notice.

#### **1.9. FORM OF ACTION**

An appeal shall be considered final as of the date of decision by the Board of County Commissioners. The appeal may be acted on by motion or resolution and is only appealable to District Court. A negative decision by the Board is not a final action for judicial review purposes if the disputed matter could be resolved by the appellant through a separate application process.

**1.10. EXPIRATION (IF APPLICABLE)**

Not applicable

**1.11. SIMILAR PROCEDURES**

Not applicable

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## EARLY ASSISTANCE MEETING

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### 1.1. PURPOSE

The purpose of this procedure is to establish a basic framework and consistent format for requesting, scheduling, and conducting an Early Assistance (EA) Meeting.

### 1.2. DESCRIPTION

The Early Assistance Meeting process is the process that staff utilizes to provide detailed project-specific information, develop customized submittal matrixes, reduce procedural duplication, and help customers make decisions to ensure efficient processing of their land use application and to increase the likelihood of approval of their proposed action prior to submitting an application.

Early Assistance Meetings may generally be conducted in person, by telephone, or by video conferencing with a PCD Planner or with a PCD Planner and a MDT depending on the complexity of the request and the familiarity of the customer with the El Paso County development review procedures.

Early Assistance Meetings are similar to the Ad Hoc Assistance and Meetings, but involve more complex application types (such as Type C or D Applications) or an application involving a complex issue, conformity, zoning compliance, or other type of technical issue and typically require PCD staff research prior to the meeting. These can generally be defined in three categories:

- PCD Planner/MDT – Enforcement Actions
- PCD Planner/MDT – Type A or B Applications (Unusual Conditions or Issues)
- PCD Planner/MDT – Type C or D Development Applications

### 1.3. APPLICABILITY

The Early Assistance Meeting is an opportunity for the applicant to discuss their proposed development action with the PCD Planner and MDT, as applicable. Proper assistance and analysis concerning application submittals is provided at the EA Meeting which helps ensure the following: complete and accurate information for the customer; improved customer knowledge and understanding of the requirements and conditions for making a successful application; increased timeliness and an understanding of anticipated schedules for both the customer and the County; and prioritization of actions to be taken to streamline the process for all parties involved. Improved communication, process, and application planning will help shorten the permitting and/or application process and accelerate the application review process.

### 1.4. PROCESS

#### 1.4.1. Application Processing

##### (A) Application Submitted

A complete Early Assistance Application along with the required supporting materials is submitted by the applicant to the PCD as a self-initiated minor application via EDARP. The PCD Planning Division Manager, or designee, reviews and triages the EA Application for completeness. If the PCD Planning Division Manager, or designee, determines that the EA Application is complete, then the PCD Planning Division Manager, or designee, accepts the application, creates a file number, and send a request for payment to the application through

EDARP. If the EA Application is determined to be incomplete, then the application is returned by EDARP to the applicant following review and triage by the PCD Planning Division Manager, after which the applicant is responsible for revising the application prior to resubmittal to EDARP. Upon resubmittal, the PCD Planning Division Manager, or designee, re-reviews and re-triages the application to determine completeness. Multiple resubmittals and re-reviews may be necessary in order to ensure a complete EA Application.

Once the early assistance fee is paid online or in person by scheduling an appointment with the PCD front counter staff, the PCD Planning Division Manager assigns the Early Assistance Application to a PCD Planner. The PCD Planner may elect to refer the EA Application to the PCD Engineering Division Manager, or designee, for review and assignment if the nature of the EA Application indicates the need for review by a PCD Engineer. The PCD Engineering Division Manager, or designee, will then assign a PCD Engineer as a member of the MDT.

**(B) Application Referral and Early Assistance Meeting**

The PCD Planner is responsible for scheduling all EA Meetings. EA Meetings may include participation from:

- PCD Engineering Division;
- County Attorney's Office (OCA);
- El Paso County Public Health; and
- Other agencies as determined necessary by the PCD Planner.

The meeting is held and the associated meeting documentation is provided to the applicant.

**(C) Meeting Documentation and Closeout**

A copy of the planning checklist, engineering checklist, meeting audio/recording and any meeting notes are prepared and provided to the applicant through EDARP. Copies of all meeting materials become part of the Early Assistance Meeting file.

**1.4.2. Categories of Early Assistance**

**(A) PCD Planner/Technical Staff/MDT – Enforcement Action**

Enforcement actions are generally resolved by elimination of the violation. In some cases, however, the alleged violator may wish to pursue resolution of a violation through the land use application review process, thereby obtaining approval for the activity or structure. The PCD Code Enforcement Officer is not authorized to offer alternatives other than resolution through the elimination of the violation. An alleged violator seeking to resolve a violation through available administrative or code remedies is required to submit an Early Assistance Meeting Application and associated fee and attend the Early Assistance Meeting. Upon being assigned an Early Assistance Application for an alleged violation, the assigned PCD Planner shall immediately notify the assigned Code Enforcement Officer who may choose to suspend the enforcement action until an Early

Assistance Meeting can be scheduled with the alleged violator. The alleged violator shall be required to appear at the first available meeting time following receipt of the Early Assistance Application, unless otherwise authorized by the PCD Director to attend an Early Assistance meeting at a later date.

Code Enforcement Officers may, at the sole discretion of the PCD Director, attend Early Assistance meetings involving a violation for the purpose of presenting the nature, extent, and history of the violation. Alternative methods of resolving the violation, including the advantages and disadvantages of each alternative, should be considered and discussed at the meeting. Following the completion of the discussion, the alleged violator shall indicate which approach they would like to pursue to remedy the violation and such decision shall be documented by the Code Enforcement Officer in the enforcement case file and by the PCD Planner in the EA file.

If the alleged violator is authorized to pursue an administrative remedy, the PCD Planner shall begin the process of preparing the Submittal Matrix through EDARP. The review agencies, specific required and optional (or recommended) submittal items, and number of copies of each submittal item to be sent to the respective review agencies shall be identified in the Submittal Matrix. In the case of a violation, the applicant shall agree to a submittal of a complete development application, as determined by the PCD Planner, to initiate resolution of the violation within 30 days or a within an alternative timeframe as determined by the PCD Director. Copies of the descriptions of each submittal item and the necessary forms and procedures the applicant will need to initiate and complete the application review process will be compiled either at the Early Assistance meeting or within a reasonable time following the meeting. The PCD planner will forward the materials including the customized Submittal Matrix to the alleged violator via EDARP, email, mail, or coordinate with the alleged violator or his or her authorized representative to pick up the materials in person.

The customized Submittal Matrix along with a list of all items provided to the alleged violator and notes of the meeting or a copy of the audio recording of the meeting shall be filed in the Early Assistance application file. The Code Enforcement Officer shall document the applicant's decision for resolving the violation in the enforcement file including a reference to the Early Assistance Application file and suspend any further action concerning the violation in abeyance until the alleged violator either fails to submit a complete and formal land use application, including all associated supporting documents, necessary to remedy the violation in accordance with the identified schedule, or the violator fails to respond to requests for additional information within 14 days of the request date following formal application submittal, or the alleged violator fails to secure the required approval. The Code Enforcement Officer may reinstate enforcement activities without notice to the alleged violator but only upon documented failure by the alleged violator to comply with set submittal requirements and timelines or upon denial of the application intended to resolve the violation. The PCD Planner shall be responsible for keeping the Code

Enforcement Officer informed of all progress concerning the land use application related to the alternative remedy.

If the alleged violator decides not to pursue the alternative remedy, the Code Enforcement Officer shall immediately reinstate enforcement action against the alleged violator without notice to the alleged violator. The PCD Planner shall make a note in the Early Assistance Application file of the applicant's decision and document all discussions with the alleged violator that occurred at the Early Assistance Meeting and any discussions that occurred following the date of the EA Meeting.

**(B) PCD Planner/MDT – Type A or B Applications (Unusual Conditions or Issues)**

On occasion, a Type A or B Application cannot be processed due to a condition or issue associated with the property which conflicts with a provision of the LDC or with the original land use approval. An Early Assistance Meeting may be necessary where the issue is sufficiently complex and/or where the method for resolving the issue is not immediately apparent prior to issuing approval of the Type A or B Application. The decision as to whether to require an Early Assistance Meeting to discuss Type A or B Applications shall be made by the PCD Director.

**(C) PCD Planner/MDT – Type C or D Applications**

Type C and D Applications are more complex than typical counter-based Type A and B Applications. Therefore, Type C and D Applications require the assignment of a PCD Planner and, in many cases, the involvement of the MDT, including a PCD Engineer, or other County staff. Early Assistance for Type C Applications is generally defined as an “optional” service and may not require involvement of the MDT. The PCD Director shall have the authority and discretion to require an Early Assistance Meeting for Type C Applications if such application will require significant review by PCD staff or if the nature of the application has the potential for creating unusual or complex issues. An Early Assistance Meeting is always required prior to initiating a Type D Application.

The more novice the applicant, the more likely it is that Early Assistance may be desired by the applicant or that it may be required by the PCD Director in order to help ensure a successful formal application submission. Novice customers are likely to have little or no knowledge of how to manage the multitude of issues commonly associated with Type C or D Applications and professional customers may not have the certifications or resources necessary to perform such analyses independently.

**1.4.3. Methods of Conducting Early Assistance Meetings**

**(A) PCD Planner Only (in person telephone, virtual)**

In some instances, a customer and their staff or consultants may be familiar with the El Paso County application and development review processes, the proposed project is a continuation or the next phase of a prior application, or the application is relatively simple. In such instances, the PCD Director has the authority and

discretion to determine that a formal meeting is not necessary. If a formal Early Assistance Meeting is required, then the PCD Planner may choose to route the Early Assistance Application to applicable MDT members and necessary outside agencies based upon the information provided in the Early Assistance Application or upon other issues identified through the PCD Planner's review of the Application. The purpose of sending referrals to other MDT members and/or outside agencies is to obtain additional information or comments including additional permitting (e.g., other application types that must be processed) and submittal requirements.

Project review timelines discussed at the Early Assistance Meeting are tailored based upon several factors including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of the application and associated supporting documents. Upon receipt of comments and suggestions from the MDT, the PCD Planner will summarize all comments, create project(s) on EDARP and send a submittal request to the applicant via EDARP, and compile the respective application forms and procedures that the customer will need to initiate and complete the formal application submittal and review process. The PCD Planner will forward all materials to the applicant via EDARP.

In unique cases in which the proposed application is anticipated to be fairly simple or where it is apparent from previously approved applications for a multi-phase project what submittals will be required, the PCD Planner may, upon approval by the PCD Director, prepare the EDARP project without referral to other MDT members and/or outside agencies. In such cases, the PCD Planner shall review all prior approvals to determine if there are any conditions that must be satisfied prior to or in association with the next application phase.

All submittal and application materials associated with the Early Assistance Meeting shall be filed by the PCD Planner in the Early Assistance application file on EDARP.

**(B) PCD Planner and Staff/MDT**

Upon receipt of an Early Assistance Application, the PCD Planner shall determine who should be present at the Early Assistance Meeting, coordinate a date and time for an internal MDT (non-applicant attended) meeting and an applicant meeting. A copy of the Early Assistance application materials prepared by the applicant will be transmitted electronically by EDARP to the meeting participants upon scheduling the meeting.

At the applicant meeting, the PCD Planner shall chair the meeting and begin by announcing the designated Early Assistance Application file name and PCD file number and shall briefly describe the subject property and proposed project to the meeting participants. Following the announcement of the meeting by the PCD Planner and subsequent introductions by all attendees of the meeting, the applicant shall provide a brief overview of the proposed application and briefly answer questions presented by the meeting participants. Following the applicant's brief overview of the proposed application and brief response to

questions, the PCD Planner may call upon the other MDT members or other attendees to present the regulatory, application, and review requirements associated with the proposed application in the context of each attendee's respective discipline. The PCD planner, or a designated PCD staff member, shall be responsible for taking notes during the meeting and shall document all discussions. An audio/video recording of the meeting may also be taken and will be uploaded online via EDARP so that the applicant may have access.

Once a detailed understanding of the project has been obtained, the PCD Planner shall describe, in coordination with the meeting participants, the applicable application and/or permitting processes associated with the respective proposal. Where there is more than one approach to obtaining the needed approvals, the PCD Planner shall lead a discussion of the advantages and disadvantages of each approach along with the relative chances of successfully obtaining approval for the activity based upon the various options.

Once the applicant has selected an approach, the PCD Planner shall begin the process of preparing the customized Application on EDARP. The review agencies, specifically required and recommended submittal items (e.g., reports, plans, etc.), and the number of copies of each item for distribution to the review agencies shall be identified in the Matrix. The PCD Planner will forward the materials including the Application and customized Submittal Matrix to the customer via EDARP or in certain instances may need to send them to the customer via email, mail, or by contacting the customer to pick up the materials in person.

The customized Submittal Matrix along with a list of all items provided to the applicant and notes of the meeting or a copy of the audio recording shall be filed by the PCD Planner in the Early Assistance application file.

**1.5. FORM OF ACTION**

The information provided in association with the Early Assistance Meeting is documented in the Early Assistance application file. The information is complete and in effect as of the day that the Application and customized Submittal Matrix are provided to the applicant. While the customized Submittal Matrix represents the best assessment of the proposed application based upon the information exchanged at the Early Assistance Meeting, such Matrix is not binding upon PCD, El Paso County, or any of the participating review agencies. Subsequent review of the proposed application and associated supporting documents may render the need for the applicant or a participating review agency or MDT member to provide additional technical information prior to forwarding the application to the applicable decision-making body. The provision of such additional technical information may also be requested by the decision-making body or referral agencies prior to making a final decision on the proposed application or on an associated permit or other require documentation. The applicant may request that the additional information requested be allowed to be submitted in an alternative form as deemed appropriate by the PCD Director. The customized Submittal Matrix shall control the acceptance or refusal, processing, and referral of the formal application submittal.

The information gathered during an Early Assistance Meeting and the customized Submittal Matrix are only considered valid for one (1) calendar year from the date of the Early Assistance

Meeting or until a change to the LDC, Procedures Manual, or development in the surrounding area otherwise invalidate any commitments, whichever comes first.

**1.6. RESOURCE**

**1.6.1. Applicable Statues and Regulations**

LDC Section: 2.1.2

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## MERGER BY CONTIGUITY

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### 1.1. PURPOSE

The purpose of this procedure is to provide a consistent framework by which all Mergers by Contiguity are processed, reviewed, and approved.

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### 1.2. BACKGROUND

Merger by Contiguity is the process whereby nonconforming substandard-sized lots or parcels can be combined to create a lot or parcel (i.e., zoning lot) that more closely approximates the lot size requirements of the applicable zoning district to provide for building permit issuance for new construction or habitable additions in conformance with the provisions of the LDC without necessitating a replat or variance. Merger by Contiguity is a form of subdivision exemption that can be processed administratively. Merger by Contiguity may only be applied to any contiguous nonconforming lots or parcels of land where:

- Not more than one principle dwelling is located on the lots or parcels to be combined;
- The lots or parcels to be combined are located within the same zoning district; and
- The lots or parcels are owned in common ownership by the same person, persons or entity.

Merger by contiguity is governed by State statutes. C.R.S. §30-28-139(4) allows a property owner to voluntarily request a Merger.

### 1.3. APPLICABLE STATUTES AND REGULATIONS

C.R.S. §§30-28-101, et seq. allows the BoCC to grant exemptions from the definition of the term "subdivision" for any division of land the BoCC determines is not within the purposes of this statute.

C.R.S. §30-28-139(4) provides that Mergers may be sought by the owners of the property.

Section 2.1.2 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.2.4 of the LDC establishes the authorities of the PCD Director.

Section 7.2.2(E)(2) of the LDC governs the Merger of nonconforming lots or parcels.

Section 5.6.7(C) of the LDC governs the conditions under which Merger by Contiguity may be required.

### 1.4. RESOURCES

Not applicable

### 1.5. GENERAL SUBMITTAL LIST

The applicant wishing to execute a Merger by Contiguity Agreement in accordance with the requirements of Section 5.6.7(C) and Section 7.2.2(E)(2) of the LDC and the merger allowance provided by C.R.S. §30-28-139(4) in order to bring their property into conformance with the LDC and in order to obtain approval of a development application or building permit shall submit the following:

- Completed Merger by Contiguity form
- Merger by contiguity exhibit

- Any other additional items as required by the PCD Director deemed necessary to ensure compliance with the requirements of the LDC.

**1.6. STEP BY STEP REVIEW PROCEDURE**

**1.6.1. Summary of Steps**

- (A) Step 1 Early Assistance Meeting (optional)**
- (B) Step 2 Neighborhood Meeting**  
Not Applicable
- (C) Step 3 Application Submitted**
- (D) Step 4 Determination of Completeness**
- (E) Step 5 Resubmission of application (if required)**
- (F) Step 6 Application Referral (if required)**
- (G) Step 7 Consolidation of Comments and Request to Applicant (if required)**
- (H) Step 8 Applicant Submits Information Requested (if required)**
- (I) Step 9 Staff Report and Recommended Action**  
The PCD planner performs a final review of conformance of the Merger by Contiguity with the criteria for approval and prepares the Merger by Contiguity for review by the PCD Director, and Step 13 is initiated.
- (J) Step 10 Hearing Scheduled**  
Not Applicable
- (K) Step 11 Notice of Hearing**  
Not Applicable
- (L) Step 12 Hearing Held**  
Not Applicable
- (M) Step 13 Decision Concerning Development Permit**
- (N) Step 14 Development Permit Closeout**  
The PCD Director signs the approved Merger Agreement and the PCD planner files the executed Merger Agreement for recording with the El Paso County Clerk and Recorder. A copy of original recorded merger by contiguity is uploaded to EDARP and the file is closed. If denied, the applicant is provided a letter of denial which is uploaded to EDARP.

**1.6.2. Criteria for Consideration**

The Merger by Contiguity may only be applied to any contiguous nonconforming lots or parcels of land.

**1.6.3. Criteria for Approval**

Section 7.2.2 of the LDC provides the approval criteria for a Merger by Contiguity.

**1.7. REVIEW PERIOD**

A Merger by Contiguity is classified as a Type C Development Application. The timeline for reviewing a Type C Development Applications is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

**1.8. NOTICE**

Not Applicable

**1.9. FORM OF ACTION**

A Merger by Contiguity shall be considered complete and in effect as of the date of filing of an approved and executed Merger agreement in the Office of the El Paso County Clerk and Recorder.

**1.10. EXPIRATION (IF APPLICABLE)**

**1.10.1. Development Application and Conditional Development Permit Approval**

If at any time the applicant fails to provide requested materials or information within 60 days of the PCD project manager's request for information or documentation necessary to process the development application or closeout the development permit, the development application or permit shall be deemed to have expired and a new development application must then be submitted for consideration. If the applicant needs an extension of time to provide the requested materials or information, the applicant may request in writing and receive an additional 60 days to meet the requirements from the PCD planner. Only one such extension shall be granted.

**1.10.2. Development Permit**

No expiration

**1.11. SIMILAR PROCEDURES**

Not applicable

**1.12. TECHNICAL GUIDANCE**

**1.12.1. Other Processes Provided for Dealing with Reconfiguring Lot Lines and Combining Parcels**

Several provisions of the LDC allow for the combination or Merger of contiguous parcels of land or modification of lot or parcel boundaries in order to bring lots or parcels into conformance with or into closer conformance with zoning requirements or to allow a group of lots or parcels to be recognized as a zoning lot for purposes of the application of the zoning provisions contained in the LDC.

Where the conditions required to invoke a Merger by Contiguity are not met, a different procedure may be applicable. Alternative related procedures are identified in Section 1.11. of this resource guidance.

MERGER BY CONTIGUITY OF PROPERTIES  
SITUATED WITHIN UNINCORPORATED EL PASO COUNTY

By this document, it is hereby acknowledged that the properties listed below are merged together pursuant to the Nonconforming Lot or Parcel and Merger by Contiguity Sections of the El Paso County Land Development Code.

\*\*\*\*\*  
The property owner(s) formalizing the merger by contiguity are:

Address or location of property to be merged:

Current Tax Schedule number(s):

Legal Description:

The properties described above have merged together pursuant to the Nonconforming Lot or Parcel and Merger by Contiguity Sections the El Paso County Land Development Code and are considered as one (1) parcel for purposes of zoning administration as the properties do not contain the required minimum lot area as specified within the \_\_\_\_\_ zoning district which is applicable to this property.

No portion of this merged property shall be sold or conveyed away individually or separately unless said portion and/or remaining portion:

- 1) Is brought into compliance with the zoning on the property, or
- 2) Is otherwise approved by El Paso County in accordance with applicable regulations.

Property Owner(s) signature:

\_\_\_\_\_ Date: \_\_\_\_\_  
 \_\_\_\_\_ Date: \_\_\_\_\_

NOTE: Merger does not relieve the property of compliance with regulations or criteria of other agencies or departments or of other applicable sections of the Land Development Code, except as otherwise expressly provided for in the Nonconforming Lot or Parcel and Merger by Contiguity Sectins of the Code.

Merger does not eliminate lot lines or any easements associated with the property.

Merger does not guarantee that the affected parcel will be considered as a "buildable parcel."

SUBMITTED IN CONFORMANCE WITH THE  
NONCONFORMING LOT OR PARCEL AND MERGER BY  
CONTIGUITY SECTIONS OF THE EL PASO COUNTY LAND  
DEVELOPMENT CODE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director, Planning and Community Development

Exhibit A: Merger Map

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**PLANNING COMMISSION HEARING**

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**1.1. PURPOSE**

The purpose of this procedure is to describe the scheduling of development applications for review before and action by the Planning Commission and the general procedures followed by the Planning Commission in hearing and acting on an item (application).

**1.2. BACKGROUND**

The Planning Commission is a nine (9) voting member volunteer board appointed by the Board of County Commissioners (BoCC).

The Planning Commission advises the Board of County Commissioners on all matters related to the orderly growth and development of El Paso County, including applications for rezoning, special use, preliminary and final development plans, subdivisions, variance of uses, and all associated major amendments to such applications, as well as any amendments to the County's LDC. The Planning Commission is not a final decision making body except with respect to master plan adoption or amendments and location approvals. The Planning Commission also serves to make recommendations to the Board of County Commissioners on a variety of other land use applications.

The Planning Commission provides citizens with an opportunity to voice their support for or concerns with an application for development in and around their community. The Planning Commission's specific authorities are identified in Section 2.2.2(B) of the LDC. In addition to the authorities described in the LDC, the Planning Commission shall:

- Regulate the course and decorum of a hearing;
- Rule on procedural matters;
- Rule on the relevance of evidence and testimony;
- Seek the opinion of the County Attorney on legal questions pertaining to any matter before the Planning Commission; and
- Take other action necessary to lawfully conduct a hearing.

The Commission proposes its own procedures which are set forth in the Planning Commission Bylaws and Procedures. This section of the Procedures Manual is intended to outline how the Commission operates and how items are brought before the Commission. Any conflict between this procedure and the Planning Commission's adopted Bylaws and Procedures shall be considered unintentional and the Commission's Bylaws and Procedures shall prevail for the purpose of resolving such conflicts.

The PCD serves as the support staff to the Planning Commission and is responsible for preparing all items for review by the Planning Commission, scheduling items on the agenda, preparing the agenda, and keeping the official records of the Commission.

**1.2.1. Types of Hearings**

**(A) Legislative Public Hearings**

The purpose of a legislative public hearing is to obtain public input on legislative decisions on matters of policy. Legislative public hearings are required for such things as amendments to the County zoning code or master plan where new rules are being established that affect many properties. These public hearings are generally less formal than quasi-judicial public hearings and do not involve the legal rights of

specific, private parties in a contested setting, but rather affect a wider range of citizens.

**(B) Quasi-Judicial Public Hearings**

Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings as they involve the determination of legal rights of specific parties through the application of preexisting standards. As such, decisions made as a result of such hearings must be based upon and supported by the “record” developed at the hearing. Most quasi-judicial hearings include land use matters such as, but not limited to, special use, final plat, and preliminary plan applications.

**1.3. PROCESS**

**1.3.1. Scheduling a Development Application for Hearing**

No development application shall be scheduled for hearing before the Planning Commission until the PCD Planner determines that the review has been completed, all review comments have been addressed to the satisfaction of the PCD Director, or other waiver requests have been included that, if approved by the BOCC, would address the remaining outstanding issues. Until all issues have been addressed to the satisfaction of the PCD Director, the development application will not be scheduled before the Planning Commission. If the applicant objects to the development application not being scheduled for a hearing by Planning Commission then the applicant shall work with the PCD Planner or reviewers to resolve any outstanding issues. In unique instances in which the applicant is unable or for whatever reason unwilling to work with the PCD Planner or reviewers to resolved the outstanding issues, the applicant may seek a final determination on the need to resolve the issue through the issue resolution process, which shall be presided over by the PCD Director and may require technical input from the County Engineer.

When the development application is ready for Planning Commission hearing, the PCD Planner shall coordinate with the Clerk to the Planning Commission to identify the first available Planning Commission hearing date that will allow any required or courtesy notice to be prepared and provided in accordance with the public notice section(s) of this Procedures Manual. In scheduling a hearing, due regard will be given primarily to the availability and convenience of the Commission and the Secretary and, secondarily, to the availability and convenience of the applicant, known persons in opposition to the application, and other known interested parties (and their representatives or lawyers). The PCD Planner shall provide the Clerk with a blurb describing the application. The blurb shall include, at a minimum, a detailed description of the proposed project or activity for the agenda including the name of the applicant, file number, application type, short description of the project, nearest major intersection, the associated Assessor's Schedule Number(s). The PCD Planner shall provide the Clerk to the Planning Commission with a copy of the staff report.

**1.3.2. Limit on Number of Items Heard by Planning Commission**

The Planning Commission may limit the number of development applications that will be heard on any particular hearing date. Complete development applications will generally be scheduled only after all issues have been resolved to the satisfaction of the PCD Director.

**1.3.3. Hearings**

Hearings before the Planning Commission are open hearings on specific development applications and serve as an opportunity for the public to speak in support of or in opposition

to the specific development applications. The purpose of the public hearing is to allow the Commission to gather factual information to assist it in formulating a recommendation to the Board of County Commissioners based upon review criteria identified in the LDC for the respective application type. The hearing should be conducted in a manner so as to ensure that it is not a back-and-forth debate or a question and answer session with the audience.

The Planning Commission, in conducting a quasi-judicial hearing, shall acknowledge that all parties are entitled to an opportunity to appear in person or by a representative or counsel, to present and rebut testimony and evidence to an impartial approval authority, and to have the proceedings recorded.

The Planning Commission Chair (Chair) generally conducts the public hearing in accordance with the adopted bylaws.

**1.3.4. Actions by the Planning Commission**

Except as otherwise provided, the Planning Commission shall deliberate and make a recommendation to the Board of County Commissioners to approve, approve with conditions, or deny an application at the conclusion of the presentation of evidence and testimony on each application.

The Planning Commission shall seek to imposed conditions of approval proposed by PCD Staff or may propose differing conditions of approval or no conditions at all. A recommendation to approve or deny must be accompanied by findings supporting such recommendation based upon the respective review criteria for the specific application type.

Any hearing before the Planning Commission may be continued to a date and time certain, whereupon a recommendation on that application shall be made or the hearing further continued to a date certain. No additional public notice is required when the Planning Commission continues a hearing on a specific application to a date certain. The hearing on a specific application may also be continued until such time as a certain event occurs or until requested information is provided.

**1.4. NOTICE**

Notice shall be provided as required by State law, the LDC, or other County rule, regulations, or ordinance and the public notice requirements associated with the particular application type.

**1.5. FORM OF ACTION**

The Planning Commission takes action by resolution which shall include findings and conclusions which support the action.

**1.6. REFERENCE**

**1.6.1. Applicable Statues and Regulations**

C.R.S. §30-28-103 and C.R.S. §§30-28-101

LDC Sections: 2.1.2; 2.2.2 and 2.2.4

## REFERRAL OF APPLICATIONS

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### 1.1. PURPOSE

The purpose of this procedure is to provide the basic structure for determining which referral agencies (internal to the County and external) should receive a copy of an application and have the opportunity to provide comments for consideration in the application review process.

### 1.2. DESCRIPTION

Application referrals may be conducted in association with a Type B Application and are typically conducted with Type C and D Applications. The referrals are performed in order to meet statutory requirements, to ensure that all affected agencies are provided with an opportunity to review proposed projects and activities within their jurisdiction that could impact them or their ability to provide services, to determine compliance of the proposed application, project, or activity with all applicable rules and regulations, and to utilize the technical skills of those agencies most appropriately versed in reviewing certain components of the proposed project or activity for conformance with applicable laws and regulations.

The agencies who receive a referral depend on the specific nature, extent, intensity and impact of the application.

### 1.3. PROCESS

#### 1.3.1. Determining Review Agencies

The assigned PCD Planner, in consultation with the assigned PCD Engineer and any other applicable MDT member, is responsible for deciding which referral agencies should obtain a copy of the application submittals and which supporting documents within the application submittals are necessary for their review. The Submittal Matrix provided by the PCD Planner identifies the review agencies that are scheduled to receive a referral from the County on an individual application-by-application basis.

The following provides general guidance with respect to when an agency (internal to the County or external) should be provided with the opportunity to review and provide comment concerning an application. Generally, the assigned PCD Planner should tend err on the side of providing more agencies the opportunity to review and comment on the application. The assigned PCD Planner may also need to identify other agencies not specifically identified below that should be provided an opportunity to provide technical input concerning an application. In addition, there may also be other agencies or entities that should be provided a courtesy referral based upon department policy or direction.

#### (A) Planning and Community Development Multi-Disciplinary Team (MDT)

##### (1) PCD Planner

The PCD Planner manages the overall processing and review of the application and maintains the official project file which includes all application materials. The PCD Planning primarily reviews the application for compliance with the LDC, but may also be part of the review team responsible for determining compliance with other applicable rules, ordinances, and laws.

**(2) PCD Engineer**

The PCD Engineer primarily reviews the traffic and drainage related aspects of the application for compliance with the LDC, ECM, and/or DCM, as applicable. The PCD Engineer shall be provided with a copy of any development application where the application requires review for compliance with those regulations.

**(B) Pikes Peak Regional Building Department**

The Pikes Peak Regional Building Department (RBD) shall be provided with a copy of any application that requires confirmation of building permit issuance or building code compliance, or where the application involves the assignment of addresses, or if the property that is the subject of the application is located within or affects floodplain areas.

**(C) El Paso County Attorney's Office**

The County Attorney's Office shall be provided with a copy of any application that creates a legal question, relates to a code enforcement action which has been authorized for legal action, relates to a special district service plan, applications for Areas and Activities of State Interest, or involves review of water supply for conformance with state law or the water supply standards of the LDC. The County Attorney's Office also reviews and may provide comments on Subdivision Improvement Agreements, Development Agreements, Road Impact Fee applicability, and any other related legal document or issue(s).

**(D) EPC Public Health**

EPC Public Health shall be provided with a copy of any application that triggers the need for air quality permits or review, water quality permits or review, drinking water quality analysis, wastewater treatment analysis, solid waste treatment or disposal, or where the application requires a determination of compliance with the Health Code.

**(E) El Paso County Sheriff's Office**

The Sheriff's Office shall be provided with a copy of any application for a rezoning or subdivision, or which affects public safety or the provision of necessary services or facilities.

**(F) Emergency 911**

Emergency 911 shall be provided with a copy of any application where the application may result in the need to establish or modify street names.

**(G) El Paso County Parks Division (including Park Advisory Board)**

The County Parks Division shall be provided with a copy of any application that is adjacent to or affects County parks, open space or trails or if the application results in the dedication of land for parks or the payment of fees in lieu of land dedication pursuant to the LDC.

**(H) El Paso County Environmental Services Division**

The County Environmental Services Division shall be provided with a copy of any application that results in a dedication or conveyance of property to El Paso County, is located within a forested area, is located in an area identified as potentially containing noxious weeds, would result in any impacts to endangered or threatened species, or where compliance with local, state, or federal environmental standards should be evaluated.

**(I) Electrical Service Providers**

The respective electric provider, which varies from area to area within the County, shall be provided with a copy of any application where the application is a subdivision and a commitment letter has been provided, or if the application results in the need to provide electric facilities or easements, or if the application could affect electric facilities or easements.

**(J) Gas Providers (If applicable)**

The respective gas provider, which varies from area to area within the County, shall be provided with a copy of any application where the application is a subdivision and a commitment letter has been provided, or if the application results in the need to provide gas facilities or easements, or if the application could affect gas facilities or easements.

**(K) Fire Districts**

The respective Fire District or Fire department shall be provided with a copy of any application where the application is a subdivision and a commitment letter has been provided, or it is a rezoning to a higher density, or is an application that proposes construction within the boundaries of a fire district.

**(L) School Districts**

The respective school district shall be provided with a copy of any application where the application is located adjacent to or includes a school property or results in the dedication of land for school needs or the payment of fees in lieu of land dedication pursuant to the LDC.

**(M) Special Districts**

Applicable special districts shall be provided with a copy of any application where the application is a subdivision, where traffic impact fees are collected by the district, or where a commitment letter (water and/or sewer) has been provided, or where an application results in the need to provide facilities or easements which will be utilized by the district or which affects facilities, easements, or maintenance responsibilities of a special district.

**(N) Ground Water Management Districts**

The respective ground water management district(s) shall be provided with a copy of any application where the application is a subdivision application, or exemption, or generates questions regarding ground water usage.

**(O) Counties and Municipalities (if within two miles)**

Counties located within two (2) miles of the property that is the subject of the application shall be provided with a copy of the application where the application is subdivision of land and the traffic from the proposed development could have an impact on roadways located within the other County. Municipalities located within two miles of the property that is the subject of the application shall be provided with a copy of the application where the application is subdivision of land, or would have an impact on municipal operations or facilities, or which applies to land which is included in an annexation plan for the municipality.

**(P) Colorado Parks and Wildlife (CPW)**

CPW shall be provided with a copy of any application where significant wildlife habitat or wetlands are present on the property or where state listed species may be present.

**(Q) Colorado Geologic Survey (CGS)**

CGS shall be provided with a copy of any application where a soils and geology report has been submitted and the application is a subdivision (sketch plan, preliminary plan, minor subdivision, vacation and replat, etc.) or is an application for a Certificate of Designation for a solid waste disposal site and facility.

**(R) Natural Resources Conservation Services (NRCS)**

NRCS shall be provided with a copy of any application where the application is a subdivision (sketch plan, preliminary plan, minor subdivision, vacation and replat, etc.), is an application for a Certificate of Designation for a solid waste disposal site and facility, or would have an impact on agricultural operations.

**(S) Colorado State Forest Service (CSFS)**

CSFS shall be provided with a copy of any application where the application is a subdivision of land located in a forested area.

**(T) Colorado State Water Engineer**

The Office of the Colorado State Water Engineer shall be provided with a copy of any application for a subdivision application, subdivision exemption, or generates questions regarding the legal ability to utilize the proposed water supply for the intended use.

**(U) United States Army Corps of Engineers (ACOE)**

The United States ACOE shall be provided with a copy of any application where wetlands are identified on the property or where development pursuant to the application may affect wetlands.

**(V) El Paso County Stormwater Division**

The El Paso County Stormwater Division primarily reviews the stormwater and drainage related aspects of the application for compliance with the ECM, and/or DCM, as applicable pertaining to compliance with the County's MS4 permit. The El Paso County Stormwater Division shall be provided with a copy of any

development application where the application requires review for compliance with those regulations.

**(W) City of Colorado Springs Airport**

The City of Colorado Springs Airport shall be provided with a copy of any application for a subdivision application, subdivision exemption, map amendment (rezone), or new development within the CAD-O designated area.

**(X) Colorado Department of Transportation**

The Colorado Department of Transportation (CDOT) shall be provided with a copy of any application for new development which either proposes access, or has access, from a roadway which is owned or maintained by CDOT or for new development which may result in a significant increase of traffic on a CDOT roadway.

**(Y) Other Referral Agencies**

All other referral agencies are determined at the Early Assistance meeting or based upon the technical merits and review of the application.

**1.3.2. Review of Preliminary Plans and Final Plats**

At a minimum, all preliminary plans and final plats, including minor subdivisions, where a preliminary plan has been waived or where preliminary plan and final plat applications have been submitted concurrently, shall be referred to the following agencies as required by law (C.R.S. § 30-28-136(1)):

- To school districts whose boundaries fall within any portion of the proposed subdivision;
- To counties and municipalities within two (2) miles of any portion of the proposed subdivision;
- To utility, local improvement and service districts or ditch companies whose boundaries fall within any portion of the proposed subdivision;
- To Colorado State Forest Service, if applicable;
- To the local conservation district board, if applicable,
- To county health department where any onsite wastewater disposal is proposed or a finding of water quality is being requested;
- To the State Engineer, if applicable; and
- To the Colorado Geologic Survey, if applicable.

All agencies are requested to review the materials and provide comments within 21 days after receiving the EDARP referral, as required by statute (C.R.S. § 30-28-136(2)).

**1.3.3. Transmittal to Referral Agencies**

All materials shall be transmitted to the review agencies (internal to the County and external) via EDARP upon submittal, unless an alternative process is approved by the PCD Director. It is important to note that not all referral agencies receive all of the supporting reports and documentation, but instead receive those that pertain to their respective disciplines. A customized submittal matrix shall be prepared for all Type C

and Type D Development Applications where an Early Assistance Meeting is held or upon request by the applicant.

**1.3.4. Receipt of Review Agency Comments**

Comments provided by referral agencies via EDARP. EDARP will maintain a record of any review comments from the PCD Planner, other MDT members, and all responding referral agencies. The comments are transmitted to the applicant via EDARP. The applicant is responsible for responding to all comments that warrant a detailed response or revisions to the application and/or the documents supporting the application.

**1.4. REFERENCE**

**1.4.1. Applicable Statues and Regulations**

C.R.S. § 30-2-103; 30-28-136(1); and 30-28-136(2)

LDC: Sections 2.1.2 and 2.2.4

## **1.1. PURPOSE**

The purpose of this procedure is to establish a consistent process for reviewing and approving a request for approval of a special use.

## **1.2. BACKGROUND**

The LDC establishes uniform standards for the development and use of land. These standards were established to preserve and improve the public health, safety and general welfare of the citizens and businesses of El Paso County including promoting predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests, and being fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.

The special use provision is designed to allow certain uses, that with reasonable mitigation of potential impacts, would be appropriate within a zoning district. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.

Special uses may be approved administratively except for a special use that is subject to a Certificate of Designation or a special use application that includes mineral extraction with processing. In all other cases, the PCD Director may, at his or her sole discretion, elevate a special use application for review by the Planning Commission and BoCC.

## **1.3. APPLICABLE STATUTES AND REGULATIONS**

C.R.S. §§30-28-111, 113, and 114 authorize Boards of County Commissioners to adopt and amend zoning regulations for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, access to sunlight for solar energy devices, and the uses of land for trade, industry, recreation, or other purposes including methods for the administration of such regulations.

Section 2.1.2 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.2.4 of the LDC establishes the authorities of the PCD Director.

Section 5.1 of the LDC identifies the special uses that may be considered and approved within each zone district.

Section 5.1.4 of the LDC limits the consideration of special uses as accessory uses.

Section 5.3.2 of the LDC establishes the allowance for special uses, the criteria for consideration and approval, and the various standards a special use shall adhere to when located within El Paso County.

## **1.4. RESOURCES**

### **1.4.1. Associated with Most Development Applications**

Not applicable

## 1.5. GENERAL SUBMITTAL LIST

The applicant shall submit the following:

- Site Plan Map or Site Development Plan Map, depending on the nature and complexity of the special use and as specified in Table 5-1 of the LDC.
- Compliance Certification with Article 65.5 of Title 24, Colorado Revised Statutes, copy of notice, and list of mineral owners and addresses conforming to the requirements of the public notice-mineral owner notification, if applicable.
- Evidence of authority to represent the property owner, if the applicant is not the property owner.
- Development agreement, if applicable.
- Letter of intent.
- Proof of adjacent property owner notice.
- Any other additional items as required by the PCD Director deemed necessary to ensure compliance with the requirements of the LDC.

## 1.6. STEP BY STEP REVIEW PROCEDURE

### 1.6.1. Summary of Steps

**(A) Step 1 Early Assistance Meeting (if applicable)**

**(B) Step 2 Neighborhood Meeting (optional)**

Based on the input of neighbors, the applicant may choose to reassess the type of application to file. In all other cases, the PCD Director may elevate a special use application for review by the BoCC and/or the Planning Commission at his sole discretion. Significant concerns expressed by the neighbors about the proposed special use may result in the PCD Director elevating the special use application to public hearings for review by the BoCC and/or the Planning Commission.

**(C) Step 3 Application Submitted**

A complete Type C or Type D Development Application is required, as determined by the PCD Director. The required supporting materials should be submitted by the applicant to the PCD via EDARP. The materials submitted shall include all items listed in Section 1.5 of this procedure and the customized submittal matrix sent to the applicant via EDARP by the PCD Planner. Additional materials should be provided by the applicant as determined necessary by the PCD Director to respond to the criteria for approval for a special use.

**(D) Step 4 Determination of Completeness**

**(E) Step 5 Resubmission of Application (if required)**

**(F) Step 6 Application Referral**

At the time of referral, the PCD planner sends notice to adjacent property owners in accordance with the public notice and public notice-mailed procedures.

**(G) Step 7 Comments and Request to Applicant**

The PCD planner reviews any review comments and provides them to the applicant via EDARP. If the application is elevated by the PCD Director, the applicant is informed of the item being elevated to a public hearing and the EDARP file is updated with the PCD Director determination regarding the elevation.

**(H) Step 8 Applicant Submits Information Requested**

**(I) Step 9 Staff Recommended Action**

The PCD planner makes a final determination of conformance of the administrative relief request with the criteria for approval and prepares a letter for review by the PCD Director recommending either approval or denial, with or without conditions, and Step 13 is initiated.

**(J) Step 9 Staff Report and Recommended Action (if elevated)**

**(K) Step 10 Hearing Scheduled (if elevated)**

**(L) Step 11 Notice of Hearing (if elevated)**

**(M) Step 12 Hearing Held (if elevated)**

**(N) Step 13 Decision Concerning Development Permit**

**(O) Step 14 Development Permit Closeout**

A copy of the decision is provided to the applicant by the PCD planner. The PCD planner requests the required documentation from the applicant to determine conformance of the special use with any conditions of approval at the appropriate time. The PCD records any development agreements of other documents associated with the approval. A copy of the decision by either the PCD Director, or the BoCC action and/or the Planning Commission recommendation is/are uploaded to EDARP.

**1.6.2. Criteria for Consideration**

The PCD Director, Planning Commission, and BoCC may only consider an application for special use permit where land is located within a zoning district which allows the special use unless specifically authorized elsewhere in the LDC.

**1.6.3. Criteria for Approval**

To grant a special use, the criteria in Section 5.3.2 of the LDC shall be met, in addition to the compliance with the other applicable development standards and use specific standards, unless an alternative or variation is approved by a separate action.

**1.7. REVIEW PERIOD**

A special use permit is classified as a Type C or Type D Development Application, as determined by the PCD Director. The timeline for reviewing a Type C or Type D Development Application is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

**1.8. NOTICE**

Notice shall meet the notice requirements of public notice- mailed and shall be completed a minimum of 14 days in advance of the decision.

**1.9. FORM OF ACTION**

A special use shall be considered approved as of the date of approval of the special use by either the PCD Director with the execution of an approval letter or the BoCC with the execution of the resolution approving the special use by the Chair of the BoCC.

**1.10. EXPIRATION (IF APPLICABLE)**

If the use is not established on the subject property or a building permit is not obtained and construction substantially started within two (2) years of approval of the special use or is discontinued for a period of two (2) consecutive years, the special use shall expire and a new development application and fees shall be required. A mineral extraction special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if the mineral extraction activity has been discontinued for a period of three (3) consecutive years. A special use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the property that was approved for the special use and in the area(s) of the property as depicted on the special use site plan.

A rural home occupation which receives administrative special use approval shall expire five (5) years from the date of approval.

**1.11. SIMILAR PROCEDURES**

Not applicable

**1.12. TECHNICAL GUIDANCE**

**1.12.1. Site Development Plan or Site Plan Review Required**

Site Development Plan review or Site Plan review is required before an application for a building permit can be authorized by the PCD. Site Development Plan or site plan review may be concurrent with the special use permit process and can help illustrate that impacts can be mitigated and conditions at approval can be met; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.

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**STEP-BY-STEP REVIEW PROCESS**

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**1.1 PROCESS****1.3.1. Step 1 Early Assistance Meeting**

The initial step of the application review process can vary depending on the application type. For Type A and B Applications, an Early Assistance meeting is typically not required and the review process should begin at the point of intake by the PCD front counter or EDARP, as appropriate. For Type C Applications, an Early Assistance meeting may be applied for by the applicant if desired or it may be required at the discretion of the PCD Director. An early assistance meeting is required for all Type D Application. The following outlines the early assistance meeting requirements on an application-type-by-application-type basis as well as the purpose and procedures for the Early Assistance meeting:

**(A) Early Assistance Meeting (Not Required)**

An Early Assistance meeting is not required for Type A and B applications.

**(B) Early Assistance Meeting (When Optional or Required by Director)**

An applicant may choose to request an Early Assistance meeting for Type C applications. The PCD Director, at his or her discretion, may require an early assistance meeting for a Type C Application if the application is of a nature that additional information and discussion with PCD staff should occur and be memorialized prior to formal submittal of the Type C application. The applicant is responsible for ensuring that the Early Assistance meeting application meets the criteria for acceptance and approval by the PCD Planning Review Manager or his or her designee.

**(C) Early Assistance Meeting (When Required)**

To initiate the Early Assistance meeting process, the applicant files an Early Assistance application via EDARP. The application is reviewed for completeness and acceptability by the PCD Planning Review Manager or his or her designee and is either approved for processing or rejected and returned to the applicant for revisions and resubmittal. Once approved for acceptance by the PCD Planning Review Manager, the application is assigned to a PCD Planner for management and scheduling.

**(D) Purpose of Early Assistance Meeting**

The Early Assistance meeting is an opportunity for the applicant to discuss their proposed development action with the assigned PCD staff, which typically includes, at a minimum, a PCD Planner and PCD Engineer. Proper assistance and analysis provided during the Early Assistance meeting can help ensure that the applicant has complete and accurate information regarding the requirements and challenges of a specific development proposal on the specific piece of property and it can help foster build relationships between all of the parties involved. The meeting should serve to improve the applicant's knowledge and understanding of requirements/conditions to be met for a successful application. In addition to increasing the applicant's knowledge of the application submittal and review process, the meeting should also result in the applicant having a full understanding of the general project timeline as well as an understanding of how to prioritize actions that will need to be taken in order

to help streamline the process. An increased understanding of the process as well as improved communication and application planning often help shorten the application submittal and review process.

**(E) Early Assistance Meeting Procedures**

When the early assistance meeting application is formally submitted via EDARP, the application is reviewed by the PCD Planning Review Manager, or his or her designee, and is either accepted or rejected with requests for revisions. Once the application is accepted, a PCD Planner is assigned by the PCD Planning Review Manager. The PCD Planner then forwards to the application to the PCD Engineering Review Manager for assignment of a PCD Engineer. Once a PCD Engineer is assigned, the PCD Planner coordinates with the applicant, PCD Engineer, and any other applicable MDT participant(s) to schedule the Early Assistance meeting. At the meeting, the PCD Planner addresses the submittal requirements to help ensure that adequate information is available to address the respective criteria for approval for the project type. Prior to, or following the meeting the PCD Planner creates the project-specific submittal matrix via EDARP, which identifies the submittal requirements as well as the agencies that will receive a referral of the application and the specific documents supporting the application. The submittal matrix is created via EDARP and provided to the applicant electronically through emailed notice. The submittal matrix becomes the basis for the future formal application submittal and PCD acceptance.

**1.3.2. Step 2 Neighborhood Meeting (Optional)**

Depending on the nature of the application, the applicant may wish to hold a neighborhood meeting in accordance with the Early Neighborhood Involvement procedure or to personally discuss the proposed development application with neighbors and/or neighborhood organizations. The Neighborhood Meetings typically occur between the date of the Early Assistance Meeting and the date of formal application submittal; however, in some instances the applicant may determine that it is more appropriate to hold these meetings after the formal application submittal has occurred. Rarely are Neighborhood Meetings held prior to the Early Assistance Meeting and, as such, the applicant is generally discouraged from holding such meetings prior to the Early Assistance meeting with the assigned PCD staff.

**1.3.3. Step 3 Application Submittal**

**(A) Type A Development Application Submittal**

A complete Type A Application along with the required supporting materials is submitted to Building Department and then a request for review is forwarded onto PCD. PCD staff creates a project via EDARP with the data provided by the Building Department, to include the property information and uploading the application documents into EDARP. Additional materials should be provided by the applicant as determined necessary to respond to the regulatory requirements for receiving approval of the respective application or permit.

**(B) Type B Application Submittal**

A complete Type B Application along with the required supporting materials is submitted to the PCD via EDARP. The materials submitted shall include all items as required in EDARP, and/or as otherwise identified by the PCD staff. Additional materials should be provided by the applicant as determined necessary to respond to

the regulatory requirements for receiving approval of the respective application or permit.

**(C) Type C Application Submittal**

A complete Type C Application along with the required supporting materials is submitted by the applicant to the PCD via EDARP. The materials submitted shall include all documents as listed on the project-specific submittal matrix provide by the PCD Planner via EDARP. The applicant may be required to provide additional materials, if such materials are determined to be necessary to respond the respective criteria for approval of the proposed application.

**(D) Type D Application Submittal**

A complete Type D Application along with the required supporting materials is submitted by the applicant to the PCD via EDARP. The materials submitted shall include copies of all documents as listed on the project-specific submittal matrix provide by the PCD Planner via EDARP. The applicant may be required to provide additional materials, if such materials are determined to be necessary to respond the respective criteria for approval of the proposed application.

**1.3.4. Step 4 Determination of Completeness**

**(A) Determination of Completeness (Mailed Notice Not Required)**

The PCD triage personnel makes a determination of completeness (initial correctness review) based on the submittal matrix. EDARP will automatically reject attempts at submission where an item has not been uploaded for all requested application items. If the submission is not complete, the application and supporting materials are rejected after triage along with a description of the discrepancy. Once the submission is determined to be complete following review by the PCD triage personnel, the applicant is notified of such triage completion and shall then pay the associated application fee via EDARP. Once the applicant pays the application fee, the submittal is accepted, a PCD Planner is assigned to the project, and an electronic referral is sent to each of the applicable referral agencies.

**(B) Determination of Completeness (Prior Mailed Notice Required)**

Prior to formal submittal of an application to the PCD, the applicant is responsible for researching abutting and affected property owners in accordance with public notice-mailed (Adjacent Property Owner Notification), and preparing and mailing a courtesy notice concerning the application to each abutting and affected property owner in accordance with public notice-early notice (Mailed) procedure. The PCD triage personnel makes a determination of completeness (initial correctness review) based on the submittal matrix. EDARP will automatically reject attempts at submission where an item has not been uploaded for all requested application items. If the submission is not complete, the application and supporting materials are rejected after triage along with a description of the discrepancy. Once the submission is determined to be complete following review by the PCD triage personnel, the applicant is notified of such triage completion and shall then pay the associated application fee via EDARP. Once the applicant pays the application fee, the submittal is accepted, a PCD Planner is assigned to the project, and an electronic referral is sent to each of the applicable referral agencies.

**1.3.5. Step 5 Resubmission of Development Application**

**(A) Resubmission of Type A Development Application (if required)**

A complete Type A Application along with the required supporting materials is resubmitted to PCD by the applicant via the Building Department. The PCD staff makes a determination of completeness (initial correctness review). If the application is still not complete, the request to authorize the building permit is denied with a request to provide the additional required materials not previously provided and Step 5 is repeated. If it is determined to be complete following review by the PCD staff, the project is closed and approved in EDARP, the building permit is authorized, and the applicant is notified and shall then pay the associated application fee via the Building Department.

**(B) Resubmission of Type B Development Application (if required)**

A complete Type B Application, along with the required supporting materials is resubmitted to PCD by the applicant via EDARP. The PCD intake staff makes a determination of completeness (initial correctness review). If the application is still not complete, the application and supporting materials are returned to the applicant via EDARP along with a request to provide the additional required materials not previously provided or correct the errors and Step 5 is repeated. If the submission is determined to be complete following review by the PCD triage personnel, the PCD Planner reviews the application and provides an approval. Following approval, the applicant is notified of such and shall then pay the associated application fee via EDARP.

**(C) Resubmission of Type C Development Application (if required)**

A complete Type C Application along with the required supporting materials is resubmitted to PCD by the applicant via EDARP. The PCD Planning Manager makes a determination of completeness (initial correctness review). If the application is still not complete, the application and supporting materials are returned to the applicant via EDARP along with a request to provide the additional required materials not previously provided or make the necessary corrections and Step 5 is repeated. If the submission is determined to be complete following review by the PCD Planning Manager, the applicant is notified of such triage completion and shall then pay the associated application fee via EDARP. Once the applicant pays the application fee, the submittal is accepted, a PCD Planner is assigned to the project, and an electronic referral is sent to each of the applicable referral agencies and Step 6 is initiated.

**(D) Resubmission of Type D Development Application (if required)**

A complete Type D Application along with the required supporting materials is resubmitted to PCD by the applicant via EDARP. The PCD Planning Manager makes a determination of completeness (initial correctness review). If the application is still not complete, the application and supporting materials are returned to the via EDARP along with a request to provide the additional required materials not previously provided or make the necessary corrections and Step 5 is repeated. If the submission is determined to be complete following review by the PCD Planning Manager, the applicant is notified of such triage completion and shall then pay the associated application fee via EDARP. Once the applicant pays the application fee, the submittal is accepted, a PCD Planner is assigned to the project, and an electronic referral is sent to each of the applicable referral agencies and Step 6 is initiated.

**1.3.6. Step 6 Application Referral****(A) Completeness Review and Internal Referral by PCD Intake Staff**

An initial completeness review is conducted by the PCD Planning Manager. The PCD Planning Manager may refer the application to the assigned PCD Planning and/or PCD Engineering staff for additional completeness review as necessary prior to creating the formal file.

**(B) Referral of Electronic Applications via EDARP By Triage Personnel**

The PCD Planning Manager conducts the initial review of electronic submittals and assigns the submittal (project) to a PCD Planner. The assigned planner reviews the list of referral agencies and matrix prior to sending a request for referral to the appropriate referral agencies via electronic transmission by EDARP for review to determine conformance with all applicable codes, rules, regulations, and ordinances. A notice of the referral is sent by email via EDARP to the referral agencies listed on the submittal matrix created in EDARP after the Early Assistance Meeting.

Additional referral agencies may be necessary based on the nature of the request. The list of referral agencies may be expanded as necessary to support the review of the application.

The review timeline and due date for comments for each application and, in some instances, for each referral agency shall be determined on a case-by-case basis.

Timelines for reviews shall be adjusted based upon the complexity of the proposed project, PCD staffing, and PCD Planning and Engineering staff workloads.

**1.3.7. Step 7 Transmission of Comments and Request to Applicant**

The review comments are received and accepted by the PCD Planner. The review comments are transmitted to the applicant for response along with a resubmittal matrix identifying all required documents to be revised and resubmitted as part of a complete resubmittal package. The applicant may request a comment review meeting pursuant to the Comment Review Meeting section of this Procedures Manual to discuss the review comments. If a Comment Review Meeting is requested, the PCD Planner schedules a meeting with appropriate internal and/or external referral agency representatives. If all required materials, as determined by the resubmittal matrix, have been resubmitted and, after re-review by the assigned PCD Planner or the PCD Planner and Engineer and/or any appropriate referral agencies, the PCD Director shall determine whether all outstanding comments have been appropriately addressed. If the determination is that all comments have been appropriately address, then Step 9 is initiated. Otherwise, Step 8 is initiated.

**1.3.8. Step 8 Applicant Provides Response and Resubmittal – Re-Review Occurs**

The applicant submits any required revisions to the application and supporting documents pursuant to the resubmittal matrix via EDARP. The applicant may choose to provide a comment response letter, or in some instances, the PCD Director may require that a comment response letter be provided. The PCD Planner, PCD Engineer, and/or all appropriate referral agencies are provided with an additional time frame to review the applicant's revised supporting documents and determine whether the resubmittal has addressed all of the outstanding issues. The PCD Planner shall establish the re-review timeline and due date for comments for each resubmittal on a case-by-case basis. Timelines for re-reviews shall be adjusted based upon the complexity of the proposed project, PCD staffing, and PCD Planning and Engineering staff workloads. If the applicant's response and resubmittal are deemed, by

the PCD Director after consultation with the PCD Planner and Engineer or other appropriate County staff (e.g., the County Engineer), to have adequately resolved the outstanding issues, then Step 9 is initiated. Otherwise, if the PCD Director determines that significant outstanding issues remain unresolved, then Steps 7 and 8 are repeated.

**1.3.9. Step 9A Final Action on Type A and B and Some Type C Applications**

Once all issues have been resolved to the satisfaction of the PCD Planner or intake staff, as applicable, all Type A and B and some Type C Applications may be approved and any associated permits may be issued, excluding any required construction permits. A pre-construction meeting may be required prior to issuance of a construction permit in association with a Type A or B Application and some Type C Applications.

**1.3.10. Step 9B Hearing Scheduled – Some Type C and All Type D Applications**

All Type D and some Type C Development Applications require review and final action to be taken by one or more of the following public hearing bodies.

**(A) Planning Commission**

The PCD Planner, serving as the project manager, schedules the required public hearing before the Planning Commission in accordance with the hearing procedures (Planning Commission Hearing).

**(B) Board of County Commissioners**

The PCD Planner schedules the required public hearings before the Board of County Commissioners in accordance with the hearing procedures (Board of County Commissioners Hearing).

**(C) Board of Adjustment**

The PCD Planner schedules the required public hearing before the Board of Adjustment in accordance with the hearing procedures (Board of Adjustment Hearing).

**1.3.11. Step 10 Notice of Hearing**

**(A) Notice of Hearing (Only Mailing and Posting Notice Required)**

The PCD Planner coordinates with the PCD Administrative Services staff to prepare a notice of the public hearing in accordance with the public notice procedures. Notices are mailed to adjacent property owners by the PCD in accordance with the public notice-mailed procedures. A sign is prepared and posted by the PCD pursuant to the requirements of public notice-posted procedures.

**(B) Notice of Hearing (Mailing, Posting, and Publication Required)**

The PCD Planner coordinates with the PCD Administrative Services staff to prepare a notice of the public hearing in accordance with the public notice procedures. Notices are mailed to adjacent property owners by the PCD Planner in accordance with public notice-mailed and C.R.S. §24-67-104(1)(e), which requires written notice of the public hearing shall be delivered or mailed, first-class postage prepaid, at least 15 days prior to the public hearing to adjoining landowners. Notice is sent to the newspapers of record in accordance with the public notice-published procedures by the PCD for certain applications types in accordance with C.R.S. §30-28-116. A sign is prepared and posted by the PCD pursuant to the requirements of public notice-posted procedures.

**(C) Notice of Hearing (Concerning Vacations of Rights-of-Way)**

The PCD Planner coordinates with the County Attorney's Office staff to provide written notice of the date, time, and place of the hearing to the applicant, appropriate County departments and internal and external referral agencies, all abutting property owners to any rights-of-way proposed to be vacated, any property owners taking access from any right-of-way proposed to be vacated, to all beneficiaries of any easement or right-of-way to be vacated, and any other person or entity expressing an interest in the vacation, no later than 10 days prior to the hearing in accordance with the public notice procedures. While, by policy, notice is to be sent to the adjacent property owners at least 14 days in advance of the hearing, in the case of a right-of-way vacation only 10 days is legally required and shall constitute legally sufficient notice. However, every attempt shall be made to conform to the 14 day notice policy.

**(D) Notice of Hearing (Concerning Appeals)**

In accordance with the public notice procedures, the PCD Planner coordinates with the PCD Administrative Services staff to research adjacent property owners in accordance with the public notice-mailed (Adjacent Property Owner Notification) procedures and prepares and mails notice to adjacent property owners. Written notice of the date, time, and place of the hearing is also provided to the appellant, appropriate County departments and internal and external referral agencies, and any other person or entity expressing an interest in the appeal.

**1.3.12. Step 11 Staff Report****(A) Preparation**

The PCD Planner creates the staff report template for the proposed application and works collaboratively with the PCD Engineer to complete the written technical analysis within the body of the report including any recommended conditions of approval. The analysis is meant to provide the hearing bodies with a technical evaluation of the applications consistency with the applicable regulations governing the respective application type.

**(B) Report Review and Approval**

Following preparation of the staff report by the PCD Planner and PCD Engineer, the staff report is routed to the appropriate PCD review managers (e.g., Planning Review Manager, Engineering Review Manager, etc.) for review and comment and to the PCD Executive Director for finalization and approval.

**(C) Report Provided to the Applicant and Incorporated into Hearing Materials**

Once the staff report has been reviewed and approved, the PCD Planner provides a copy of the report to the applicant and coordinates with the PCD Administrative Services staff to incorporate it into the commission and/or board hearing materials. The staff report is also made available for review by the public.

**1.3.13. Step 12 Hearing Held****(A) Planning Commission**

The hearing before the Planning Commission is held. The hearing is held in accordance with Planning Commission bylaws, policies, and procedures and is not specifically governed by this Procedures Manual.

**(B) Board of County Commissioners**

The hearing before the Board of County Commissioners is held. The hearing is held in accordance with Board of County Commissioners bylaws, policies, and procedures and is not specifically governed by this Procedures Manual.

**(C) Board of Adjustment**

The hearing before the Board of Adjustment is held. The hearing is held in accordance with Board of Adjustment bylaws, policies, and procedures and is not specifically governed by this Procedures Manual.

**1.3.14. Step 13 Decision Concerning Development Applications**

**(A) Type A and B Applications - PCD Intake Staff Decision**

PCD intake staff, which may include, but is not necessarily limited to, a PCD Administrative Technician, Planner, Inspector, or Engineer, approves or denies the application and documents a decision including any reasons for denial.

**(B) Some Type C Applications - PCD Director Decision**

The PCD Director, or his or her designee, approves or denies the application with or without conditions and documents the decision including any reasons for denial.

**(C) Some Type C and Some Type D Applications - Planning Commission Action**

The Planning Commission acts by resolution to make a recommendation on the application of either approval, with or without conditions, or denial. Following action by the Planning Commission, the PCD Planner initiates Steps 9B through 12 to schedule the item for review and final action by the Board of County Commissioners, unless the Planning Commission is the designated final decision maker on the respective application type (e.g., Approval of Location Applications). In such cases, the Planning Commission acts by resolution to make a final decision on the application of either approval, with or without conditions, or denial.

**(D) Some Type C and Some Type D Applications - Board of County Commissioners Action**

The Board of County Commissioners acts by resolution to make a final decision on the application of either approval, with or without conditions, or denial. The decision, including any reasons for the decision, is documented in the record of the hearing.

**(E) Some Type D Applications – Board of Adjustment**

The Board of Adjustment acts by resolution to make a final decision on all dimensional variance (Type D) applications of either approval, with or without conditions, or denial. The decision, including any reasons for the decision, is documented in the record of the hearing.

**1.3.15. Step 14 Post-Decision/Permit Issuance Procedures**

**(A) All Type A and B and Some Type C Applications - Decision Provided by PCD Intake Staff**

A copy of the decision is provided to the applicant by the PCD intake staff, which may include a PCD Inspector.

**(B) Some Type C and All Type D Applications - Decision Provided by PCD Planner**

The PCD Planner coordinates with the PCD Administrative Services staff to provide a copy of the decision to the applicant.

**(C) New Application Filed if Denied**

If an application is denied, the applicant may initiate Step 1 to begin the process of making a new application. Note that some applications, if denied, may not be resubmitted as a new application unless the new application is in compliance with various restrictions regarding submittal of a similar application within a set period of time following the prior denial.

**(D) Appeal of Decisions**

Any person aggrieved by the decision of any board or County representative having final decision authority may appeal the decision to the appropriate appellate body pursuant to the LDC and as governed by this Procedure Manual. If such body is the Board of County Commissioners or the Board of Adjustment, then the applicant requesting a hearing via an appeal application shall initiate Step 1.

**1.3.16. Step 14 Development Permit Closeout**

The procedures for closing out a development application shall be governed by the respective Procedures Manual sections for each of the various development applications.

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## **SUBMISSION AND ACCEPTANCE OF APPLICATION (INTAKE)**

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### **1.1. PURPOSE**

The purpose of this procedure is to establish the basic framework and requirements for submission and acceptance (intake) of applications. It is at the application intake level that the PCD ensures a quality formal application submittal and, as such, is able to provide the respective reviewing parties with concise, complete, and technically competent materials for review of various projects. A determination of a final, complete application is not made at the time of submission and acceptance (intake), but rather shall be made prior to scheduling applications for hearing that require review and recommendation or final action by the Planning Commission and/or review and final action by the Board of County Commissioners or, in the event that a public hearing(s) is not required, prior to final action by the PCD Director pursuant to the administrative authorities granted to the Director within the El Paso County Land Development Code (LDC).

### **1.2. DESCRIPTION**

The acceptance of complete documents is important for efficient processing of projects and other development activities. All submissions are to be completed electronically using EDARP. The initial completeness review check of the project is done by the Planning Review Manager, or assigned designee, functioning as the triage personnel, to determine that all application materials necessary to process the development application have been provided by the applicant. EDARP will automatically reject an attempt at submission if the applicant has failed to upload one item for each of the required application submission items. Documents are reviewed for completeness, and documentation about the site, customer, infrastructure, land use, and other requirements are addressed.

It is important to distinguish the quantitative completeness review and intake from technical qualitative review of the application review. Staff conducting the quantitative completeness review and intake is tasked with assessing the plans and associated documents against the previously prepared matrices, checklists, or procedures. The intake process is also tasked with creating the formal PCD file for processing the application, assessing and collecting the associated application fees, and coordinating with the PCD Planning Division and PCD Engineering Division supervisors to assign the technical review staff members. Typically, the PCD Planner and other review staff, which may include a PCD Engineer, are assigned to the anticipated application prior to conducting the Early Assistance meeting, if such meeting was required or requested. Unless there is a staffing issue, the PCD staff members assigned to the Early Assistance Meeting application will also typically serve as the application reviewers, which helps ensure technical continuity throughout the course of the application review process. If an Early Assistance Meeting was not required or requested, the PCD Planning Division and PCD Engineering Division supervisors shall assign the technical review staff members upon submittal of the formal application.

After the actual physical intake of the application is completed and the PCD file is created, the formal qualitative technical review of the application follows, including distribution to and review by any identified referral agencies.

### **1.3. GENERAL SUBMITTAL LIST**

The submittals are those identified in the procedure governing the specific application type and any project specific matrix or checklist developed as part of the Early Assistance process.

## 1.4. PROCESS

### 1.4.1. Initial Application Submittal or Resubmittal

#### (A) Step 1 Applicant Makes Submittal

The application submittal and acceptance process (intake) is initiated by the applicant. In most cases, the applicant may make a formal application submittal without an appointment for all project types via EDARP, unless an alternative form for submittal is otherwise authorized by PCD. Formal digital application submittals for triage and acceptance of all application types may be made via EDARP at the applicant's discretion following receipt of notice that the project specific matrix has been finalized.

#### (B) Step 2 Determination of Type of Application and Checklist

The PCD Planner or intake staff, as appropriate, determines the type of application(s) being submitted and identifies the appropriate governing procedures, forms, and associated matrices and checklists. If the application was previously denied at the time of EDARP triage, then the triage personnel, as appropriate, reviews the re-submitted formal application anew to ensure full compliance with the associated submittal requirements.

##### **Type A and B Development Applications**

If the proposed application is a Type A or B Application, then the PCD intake staff member, or in some instances the PCD Planner, utilized the provisions of this Procedures Manual to determine the appropriate application type and project type and utilizes the governing procedures, forms, and checklists or matrices to evaluate the proposed application for compliance prior to acceptance.

##### **Type C and D Development Applications**

If the application involves a Type C or D Development Application, then the applicant uploads all of the submittal requirements to EDARP in compliance with the project-specific submittal matrix, submits the submission items electronically, and the triage personnel evaluates the submittal for full compliance with the application requirements. The Submittal Matrix is provided to the applicant via EDARP prior to submittal. If the application is a Type D Application and the Early Assistance Meeting has expired, the application is returned to the applicant along with instructions on how to submit a request for a Early Assistance Meeting online. EDARP will not allow for the submittal of applications without a Submittal Matrix being created by the assigned PCD Planner and sent to the applicant, which should help ensure that applications requiring an Early Assistance Meeting are not submitted via EDARP unless such Early Assistance Meeting has occurred. In any event, the applicant is informed that an Early Assistance Meeting is required and is requested to complete the Early Assistance Meeting Application and to participate in the associated Early Assistance meeting.

For a Type C Application not requiring an Early Assistance Meeting, and the applicant has coordinated a customized Submittal Matrix with the PCD Planner, then the triage personnel shall review the application for conformance with the governing matrix, form(s), and procedure(s) and shall determine if the submittal meets the quantitative requirements for making a formal application.

A customized submittal matrix prepared for a previously denied application is considered invalid for the purposes of filing a new application unless expressly approved for use in association with the new development application by the assigned PCD Planner.

**(C) Step 3 Completeness Review (Review Against Checklist, Matrix, and/or Procedure)**

Following the application being submitted digitally via EDARP, the triage personnel performs a quantitative review of the submittal materials to determine if the materials included each item identified in the customized Submittal Matrix. In addition, the triage personnel, as appropriate, briefly performs a cursory review of each submittal item to help ensure that all required forms appear to have been completed in their entirety and that each item appears to represent a complete document. If the triage personnel have a question as to the completeness of a submittal, then they may ask for technical assistance from an associated reviewer, including a PCD Planner or PCD Engineer, where an item may appear to be incomplete or otherwise insufficient.

**(D) Step 4 Determination of Completeness and Issuance of Receipt**

Once the triage personnel via EDARP determines that all required items have been provided, the PCD intake staff member or EDARP system shall calculate the required application fees and surcharges and notify the applicant of such fees to be paid. The PCD intake staff member, or EDARP, as appropriate, then creates the official project file and assigns the next available PCD file number for each application. Once all the required application fees have been paid, the application is accepted and a receipt is issued to the applicant or the applicant's representative, as appropriate.

If the triage personnel via EDARP determines that the development application is incomplete, the triage personnel notifies the application of the deficiencies and documents the deficiencies in writing and returns a list of deficiencies to the applicant. Any attempt to make a resubmittal subsequent to denial by the triage personnel of the most recent submittal attempt shall be processed for acceptance by reinitiating the submittal and review procedures of this section.

**(E) Step 5 File Creation and Assignment to PCD Planner or Processing**

Following acceptance of the application, including the associated supporting documents, by the PCD Planner or triage personnel, a new PCD file is created and data about the specific request is entered automatically via EDARP.

In the case of a Type C or D Application, a PCD Planner is assigned, if one has not been previously assigned by the PCD Planning Division Manager, and the official file is transferred to the PCD Planner to initiate review of the application. The PCD intake staff member shall serve as the assigned PCD Planner for the purposes of reviewing Type A or B Development Applications, unless a PCD Planner is assigned to such Type A or B Application by the PCD Planning Division Manager at his or her discretion.

**1.4.2. Resubmittal of Previously Denied Application**

Where a development application or permit has been denied, a new development application or permit, as applicable, which does not provide evidence showing a substantial change in the physical conditions or circumstances (hereafter "substantial change") from the prior application or

permit, as determined by the PCD Director, cannot be accepted and processed for at least one (1) year from the date of denial. Applications for proposals that do show a substantial change from the previously denied applications or permits shall be processed, including payment and receipt of applicable application fees, as a new development application. Such applications shall provide evidence of the substantial change and indicate that the proposed project or activity is in conformance with the applicable provisions of County rules, regulations, codes, standards, and ordinances or state or federal law that resulted in the denial of the previous development permit.

When the acceptance process involves resubmittal of an application following a previously denied development application or permit, additional acceptance review by reviewers or technical staff may be required in order to determine whether the new development application or permit and associated proposed project or activity appears to resolve the issues that resulted in denial of the previous development application or permit or that such application or permit includes evidence of a substantial change from the previously denied application or permit, as determined by the PCD Director. As such, the development application is conditionally accepted until a review can be performed that determines that the new application or permit has resolved the issues that lead to the previous denial or that the proposal includes evidence of a substantial change from the denied application or permit. The assigned PCD Planner may refer the application or permit to the appropriate internal review staff or external agencies to ask for confirmation that the issues that resulted in the previous denial have been remedied by the new application or permit or that such new application or permit includes evidence of a substantial change from the denied application or permit, as determined by the PCD Director. Upon receipt of a determination of acceptability by the PCD Director in coordination with the internal review staff and/or external agencies, the assigned PCD Planner shall notify the applicant as to whether or not the new application or permit will be formally accepted for review and processing. If the new application or permit is accepted, then Step 4 above shall be initiated. If the new application or permit is not accepted, the reasons for non-acceptance shall be documented in writing and provided to the applicant or the applicant's representative, as applicable.

**1.4.3. Submittal of Additional Information**

Any additional materials submitted in support of an application are to be uploaded to EDARP by the applicant after consultation with the PCD Planner to determine how the additional items are to be logged into EDARP.

**1.5. FORM OF ACTION**

The issuance of a receipt for application fees and surcharges or receipt for additional information shall constitute formal acceptance of the development application or additional submittal materials and shall initiate the development review process.

For resubmitted development applications, a conditional acceptance shall not be considered a final action until the formal application is distributed to the review agencies.

**1.6. REFERENCE**

**1.6.1. Applicable Statues and Regulations**

LDC Section: 2.1.2

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**SUBMITTAL MATRIX (FOR TYPE C AND D APPLICATIONS)**

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**1.1. PURPOSE**

The purpose of this procedure is to provide a consistent format for identifying the forms, reports, plans, and other materials required to be submitted and the applicable referral review agencies in association with a Type C or D Application.

**1.2. DESCRIPTION**

The intent of the application submittal and review process is to ensure that only those materials necessary to determine conformance of an application with County rules, regulations, codes, standards, procedures, and ordinances along with any items necessary to ensure conformance with State and federal laws and regulations are requested as part of the application. In addition, only those digital files should be required to meet the needs of the referral agencies that will be reviewing the specific application. The project specific Submittal Matrix provides a means of reviewing the specific components of a proposed project or activity and a means of determining what materials should accompany an application to ensure that the proposed project or activity can be appropriately reviewed for conformance with all applicable regulations and standards.

**1.3. APPLICABILITY**

A customized Submittal Matrix shall be prepared following the Early Assistance Meeting for all Type D Applications and is recommended, but not required, for all Type C Applications. The assigned PCD Planner is responsible for creating the project-specific submittal matrix in coordination with the appropriate PCD review staff and referral agencies. The PCD Planner will provide the submittal matrix to the applicant as soon as practical following the meeting via EDARP. If additional information or research is required following the Early Assistance Meeting in order to complete the submittal matrix, then the PCD Planner shall provide the matrix to the applicant or the applicant’s representative as soon as the additional research has been conducted or after the additional information has been gathered. The submittal matrix shall be used to determine development application acceptance.

**1.4. REFERENCE**

**1.4.1. Applicable Statues and Regulations**

LDC Sections: 2.1.2