

## Section 8 - Location and Extent Process

(orig. 5-21-19)

### A. Intent and Purpose

1. This process was created to establish a review procedure for the location and extent of public buildings, facilities or uses as provided by Section 30-28-110, Section 22-32-124(1), and Section 22-32-124(1.5)(a) et seq. of the Colorado Revised Statutes. (orig. 5-21-19)
2. If this process is complied with, the permitted uses and the lot and building standard provisions of this Resolution shall not apply to said buildings, facilities or uses. The standards used for the development of the property shall be those identified in the final approved Location and Extent documents. (orig. 5-21-19)
3. In lieu of the completion of a Site Development Plan, the construction of onsite and/or offsite improvements related to the Location and Extent can be accomplished through a Land Disturbance or other applicable permit. Such permit shall include the improvements identified in the Location and Extent documents, such as access improvements, landscaping, lighting, architecture and parking. (orig. 7-11-06; am. 4-20-10; am. 12-21-10; am. 3-26-13; reloc. & am. 5-21-19)

### B. Application

1. Public School: This process must be completed by the school on behalf of the Board of Education prior to the following: (orig. 5-21-19)
  - a. The acquisition of land or the contracting to purchase land. (orig. 5-21-19)
  - b. The construction of a structure/building. (orig. 5-21-19)
2. Charter School: This process must be completed by a Charter School prior to the following: (orig. 5-21-19)
  - a. The contracting for a facility. (orig. 5-21-19)
  - b. The construction of a structure/building. (orig. 5-21-19)
  - c. Pursuant to State Statute, the Planning Commission directs Planning & Zoning staff to request site development plans for all proposed Charter Schools. (orig. 5-21-19)
3. Other Public Entities: This process must be completed by the government of the State of Colorado or any political subdivision thereof, and by any public utility (whether publicly or privately owned), prior to the following: (orig. 5-21-19)
  - a. The authorization or construction of any road, park, or other public way, ground or space, public building or structure, or public utility. (orig. 5-21-19)
  - b. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, or sale or lease of or acquisition of land for any road, park, or other public way, ground, place, property, or structure. (orig. 5-21-19)
4. Special Considerations:
  - a. If the location and extent of any road, park, or other public way, ground or space, public building or structure, or public utility, whether publicly or privately owned, has already been reviewed and approved by the Planning Commission at a public hearing through a different process (i.e. subdivision, rezoning, Comprehensive Plan update, or similar process), a separate Location and Extent application shall not be required. (orig. 5-21-19)
  - b. Based on the approval of this regulation, the Planning Commission will take no action on the activities listed below. Per State Statute, taking no action is deemed approval by the Planning Commission. (orig. 5-21-19)
    - (1) Minor routine extensions of utilities. (orig. 5-21-19)
    - (2) Maintenance of existing roadways or facilities, or the replacement of an existing facility with improvements that substantially match the original improvements. (orig. 5-21-19)
    - (3) The sale, lease, or acquisition of any property or structure approved by the Board of County Commissioners. (orig. 5-21-19)

- (4) The construction or maintenance of roadways identified in the Major Thoroughfare Plan. (orig. 5-21-19)
  - (5) Land acquisitions for schools, if such acquisition has been reviewed through a land development process. (orig. 5-21-19)
  - (6) Utilities and telecommunications facilities in public rights-of-way, so long as the height of such improvements is no more than 10% greater than that allowed by the underlying zoning. (orig. 5-21-19)
  - (7) Any other proposal that the Director of Planning and Zoning deems to be minor in nature and is not anticipated to generate negative impacts to the health, safety and welfare of the community, and thus would not likely generate significant public interest. (orig. 5-21-19)
5. A nonrefundable processing fee in an amount established by the Board of County Commissioners is required for this process. (orig. 5-21-19)
  6. Notification is required in accordance with the Notification Section. (orig. 5-21-19)
  7. The following procedure, requirements and criteria shall apply to Location and Extent applications. (orig. 5-21-19)

**C. Procedure**

The submittal requirements for this process are identified above in the Submittal Requirements Section of this Resolution, however, not all listed documents are required for each application. Prior to applying, it is recommended that the applicant contact Planning and Zoning to establish the specific submittal requirements. (orig. 5-21-19)

**Steps Prior to Referral**

1. Sufficiency Review, Referral Distribution and Hearing Scheduling:

The applicant shall electronically submit all documents for review by Staff. Pursuant to State Statute, the Case Manager will be prepared to schedule the application for a hearing before the Planning Commission so that the hearing occurs within thirty days of the Official Submission date. The Official Submission date will be when the required submittal documents are submitted, and the required fees are paid. (orig. 5-21-19)

Within 3 calendar days of a submittal or resubmittal, the Case Manager will review the application. If the application is deemed complete, the Case Manager will send the application out on referral. If the application is deemed incomplete due to deficiencies in submittal documents, the Case Manager will respond to the applicant explaining any deficiencies in the submittal documents and request that they acknowledge in writing that the application will be revised, and that the Official Submission date has not yet been established. Upon resubmittal of documents to address staff’s concern, a new Official Submittal date will be established. If the applicant is not willing to delay the Official Submission date, then the Case Manager will send the case out on referral and schedule the case for the Planning Commission Hearing. (orig. 5-21-19)

Notification is required at the time of the Referral in accordance with the Notification Section. (orig. 5-21-19)

**Referral**

2. Referral and Staff Response:

Due to the requirement for the application to be heard by the Planning Commission within thirty days of the Official Submission date, this procedure does not establish a length for the referral period. Typically, the referral agencies will have at least 7 calendar days to review the application and provide comments. The Case Manager will establish the referral end-date when the referral is sent out. (orig. 5-21-19)

3. Forwarding Referral Comments: After the end of the referral period, the Case Manager will provide the applicant with a Staff response inclusive of referral agency responses. The Case Manager will also indicate the Staff position on the application moving forward to the Planning Commission Hearing. Based on the complexity of the application, the Staff concerns and the referral agency comments, Staff may recommend that the applicant request that the Planning Commission Hearing be continued so that the concerns and comments can be adequately addressed. (orig. 5-21-19)

**Applicant’s Response to Referral**

4. The applicant is encouraged to work with the referral agencies and Staff on any outstanding issues prior to the Planning Commission Hearing. If the applicant chooses to request a continuance of the Planning Commission Hearing to address the concerns and comments, then the request needs to be made in writing prior to the hearing or it needs to be requested verbally at the hearing. (orig. 5-21-19)

#### **Planning Commission Hearing**

5. The following actions will be taken by the Planning Commission based the type of entity applying for the Location and Extent Review: (orig. 5-21-19)
  - a. Public Schools: The Planning Commission shall review the request and the Staff report, receive testimony and evidence on the application, and either approve the request or provide comment on the proposed site location and/or the proposed site plan to the School District. If the Planning Commission is not satisfied with the response from the School District related to their comments, then they may request a public hearing before the Board of Education. If requested by the Planning Commission, the Board of Education shall promptly schedule said public hearing, publish at least one notice and provide written notification of the hearing to the Planning Commission. (orig. 5-21-19)
  - b. Charter Schools: The Planning Commission shall review the request and the Staff report, receive testimony and evidence on the application, and either approve the request or provide comment on the proposed site location and/or the proposed site plan to the governing body of the charter school. If the Planning Commission is not satisfied with the response from the governing body of the charter school related to their comments, then they may request a public hearing before the Board of Education. If requested by the Planning Commission, the Board of Education hearing shall be within 30 days of the request by the Planning Commission. (orig. 5-21-19)
  - c. Other Public Entities: The Planning Commission shall review the request and the Staff report, receive testimony and evidence on the application, and shall approve, conditionally approve or deny the application. The Planning Commission may continue the request to a future date if the applicant agrees to the continuance either in writing or at the public hearing. A continuance shall be to a date certain. (orig. 5-21-19)

#### **Final Approvals**

6. If the Planning Commission does not approve the application, then the applicant has the following options to gain approval of their project: (orig. 5-21-19)
  - a. Public School: After the Planning Commission provides comments or attends a hearing before the Board of Education to voice their concerns about a project, the Board of Education has authority to finally determine the location of public schools within the district and construct necessary buildings and structures. (orig. 5-21-19)
  - b. Charter School: After the Planning Commission provides comments or attends a hearing before the Board of Education to voice their concerns about a project, the charter school may proceed with its site plan unless prohibited from doing so by school board resolution. (orig. 5-21-19)
  - c. Other Public Entities: If the Planning Commission denies the application or places a condition of approval on the application that the applicant does not support, the applicant may choose to amend and resubmit the application for a new Location and Extent process, or they may request approval of the project from their governing body or board in accordance with State Statutes, generally as follows: (orig. 5-21-19)
    - (1) If the public way, ground, space, building, structure, or utility falls within the province of the Board of County Commissioners, then the board has the power to overrule such disapproval by a vote of not less than a majority of its entire membership. The Board shall review the request, Staff report, and the Planning Commission decision, receive testimony and evidence on the application, and shall uphold or overrule such disapproval by the Planning Commission. (orig. 5-21-19)
    - (2) If the public way, ground, space, building, structure, or utility does not fall within the province of the Board of County Commissioners, disapproval may be overruled by the body or official having jurisdiction by a vote of not less than a majority of its entire membership or by said official. (orig. 5-21-19)

- (3) If a utility is owned by an entity other than a political subdivision, then the disapproval by the Planning Commission can be overruled by the Public Utilities Commission by a vote of not less than a majority of its entire membership. (orig. 5-21-19)

**D. Criteria for decisions in Location and Extent cases**

1. The Planning Commission, in reviewing Location and Extent applications may consider the following criteria: (orig. 5-21-19)
  - a. The compatibility with the existing and allowable land uses in the surrounding area. (orig. 5-21-19)
  - b. The degree of conformance with applicable land use plans. (orig. 5-21-19)
  - c. The ability to mitigate negative impacts upon the surrounding area. (orig. 5-21-19)
  - d. The availability of infrastructure and services. (orig. 5-21-19)
  - e. The effect upon the health, safety, and welfare of the residents and landowners in the surrounding area. (orig. 5-21-19)