

## Section 6 - Rezoning and Special Use Process

(orig. 5-21-19)

### A. Intent and Purpose

This process was created to move projects through the review and approval process as quickly as possible. The process outlines time frames and expectations that provide the applicant with a clear understanding of the steps involved prior to being scheduled for hearing before the Planning Commission and the Board of County Commissioners. The Director of Planning and Zoning may waive the time frames included in this process depending on Planning and Zoning staffing levels and the complexity of the proposal. (orig. 2-22-00; am. 12-17-02; am. 4-27-04; am. 10-25-05; am. 5-20-08; am. 12-21-10)

### B. Application

1. A nonrefundable processing fee in an amount established by the Board of County Commissioners is required for this process. (orig. 5-20-08)
2. The following procedure, requirements and criteria shall apply to Rezoning applications. (orig. 10-25-05)
3. Notification is required in accordance with the Notification Section. (orig. 10-13-09)

### C. Procedure

If the applicant complies with all given time frames, submits a complete application and complies with all requirements of the regulation, the estimated time to reach the public hearing phase of the process is 106 calendar days from the date of the 1st Referral. (orig. 10-25-05; am. 4-4-06; am. 5-20-08; am. 10-13-09; am. 07-17-18)

Process Steps	Processing Time Frames	
Optional Pre-Application Review Process or Meeting with Staff	Prior to Process	
Community Meeting		
<b>Steps prior to 1st Referral</b>		
Sufficiency Review and Referral Distribution or deficiency response	7 calendar days	
Resubmittal Sufficiency Review (if necessary)	5 calendar days	
<b>Process from 1st Referral to Public Hearings</b>		
1st Referral and Staff Response	28 calendar days (21 day referral, 7 days for Staff response)	106 Days to tentatively scheduled hearings if processing time frames are met.
Applicant's Response to 1 <sup>st</sup> Referral	Varies - 21 calendar days used for example timeframe	
Sufficiency Review and Referral Distribution	5 calendar days	
2 <sup>nd</sup> Referral and Staff Response	21 calendar days (14 day referral, 7 days for Staff response)	
Applicant submits Hearing Documents	10 calendar days	
Hearing Preparation	21 calendar days	
<b>Public Hearings and Post Hearing Review</b>		
Planning Commission Hearing	Time varies based on PC and BCC actions; and applicant meeting approval conditions	
Board of County Commissioners Hearing		
Post Hearing Review		

Note: Details regarding these processing timeframes are listed below.

Prior to submitting a development application, it is recommended that the applicant go through the Pre-Application Review Process, as identified in the pre-application provision of this section. The Pre-Application Review Process will help identify the key issues that will need to be addressed during the rezoning process and will help to establish the specific submittal requirements. The specific submittal requirements can also be established by obtaining an appointment with Staff to discuss the development proposal. (orig. 10-13-09; am. 07-17-18)

Community Meeting: The applicant shall hold a Community Meeting, pursuant to the Community Meeting Process, prior to submittal of the formal application and following the Pre-Application Review Meeting, if one was held. (orig. 2-22-00; am. 10-25-05)

**Steps Prior to 1st Referral**

1. Sufficiency Review and Referral Distribution (1st Referral):

The applicant shall electronically submit all documents as identified in the Submittal Requirements Section of this Regulation for review by Staff. (5-20-08; am. 07-17-18)

The Case Manager shall have 7 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents (including the appropriate referral fees). A submittal that is not complete in terms of the type of documents required will not be sent out on referral. (orig. 07-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 07-17-18)

Notification is required at the time of the 1st Referral in accordance with the notification provisions of this section. (orig. 10-13-09; reloc. 07-17-18)

2. Formal Application:

The applicant shall submit all documents as identified in the Staff response to the Sufficiency Review. (orig. 5-20-08; am. 10-13-09)

The Case Manager shall have 5 calendar days to refer the application and referral fees to County divisions/departments and other agencies. A submittal package that is not complete in terms of the type and quantity of documents required will not be sent out on referral. (orig. 2-22-00; am. 12-17-02; am. 4-27-04; am. 10-25-05; am. 4-4-06; am. 5-20-08; am. 07-17-18)

**Process from 1st Referral to Public Hearings**

3. 1st Referral and Staff Response:

The referral agencies shall have 21 calendar days to respond in writing to the application. An extension of no more than 30 calendar days may be agreed to by the applicant. (orig. 5-20-08)

The Case Manager shall have 7 calendar days, after the end of the referral period, to provide the applicant with a Staff response inclusive of other referral responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to the Hearing Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 07-17-18)

If the Case Manager indicates that the application is in substantial conformance with all applicable regulations and that only minor revisions to the documents are required, the application may proceed directly to the Hearing Documents phase of the process. Under this circumstance, the application will be able to get to the hearing phase earlier than the date(s) tentatively scheduled at the time of the 1st Referral. (orig. 2-22-00; am. 4-27-04; am. 10-25-05; am. 5-20-08; am. 07-17-18)

4. Applicant's Response to 1st Referral:

For the application to be processed in accordance with the example timeframe in the table above, the applicant shall have 21 calendar days to address, in writing, any issues identified by the Case Manager or any referral agency and resubmit revised documents for the 2nd referral. The applicant will be deemed to have consented to later hearing dates, than the tentatively scheduled hearing dates, if the resubmittal is not received within the 21 calendar day period. (orig. 2-22-00; am. 4-27-04; am. 10-25-05; am. 5-20-08; am. 07-17-18)

Regardless of the example timeframe, the applicant shall have a maximum of 180 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning may extend this 180 calendar day maximum response deadline for additional 180 calendar day periods if, in his or her opinion, the delay in response is for good cause. (orig. 2-22-00; am. 12-17-02; am. 10-25-05; am. 5-20-08; am. 12-21-10; am. 07-17-18)

5. Sufficiency Review and Referral Distribution (2nd Referral):

The Case Manager shall have 5 calendar days to review the submittal and either send the application out

on referral or respond to the applicant explaining any deficiencies in the submittal documents. A submittal that is not complete in terms of the type of documents required will not be sent out on referral. All resubmittal documents shall be submitted as a complete package and not sent in a fragmentary manner. (orig. 07-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 07-17-18)

6. 2nd Referral and Staff Response:

The referral agencies shall have 14 calendar days to respond in writing to the 2nd Referral. An extension of no more than 30 calendar days may be agreed to by the applicant. (orig. 5-20-08; am. 07-17-18)

The Case Manager shall have 7 calendar days after the end of the referral period to provide the applicant with a Staff response inclusive of referral agency responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to the Hearing Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 07-17-18)

If the applicant has not consented to later hearing dates based on the time frames of this Regulation and chooses to move forward to the tentatively scheduled hearings, the applicant shall submit the Hearing Documents as requested by the Case Manager in accordance with the Hearing Documents phase of the process. (orig. 2-22-00; am. 12-17-02; am. 4-27-04; am. 10-25-05; am. 5-20-08)

7. Applicant's Response to 2nd Referral:

The applicant shall have a maximum of 180 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning may extend this 180 calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 5-20-08; am. 12-21-10; am. 07-17-18)

8. Additional Referrals and Responses:

For the 3rd Referral, and for any subsequent referrals thereafter, the processing of the application shall follow the same steps identified above in the Sufficiency Review and Referral Distribution (2nd Referral) process, the 2nd Referral and Staff Response process and the Applicant's Response to 2nd Referral process. (orig. 5-20-08; am. 07-17-18)

The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to hearing or if revised documents should be submitted for a subsequent referral process. (orig. 5-20-08; am. 07-17-18)

9. Submittal of Hearing Documents:

The applicant shall electronically submit the Hearing Documents as identified in the Case Manager response to the last referral.. (orig. 5-20-08; am. 9-27-11; am. 07-17-18)

If the applicant has not consented to later hearing dates based on the time constraints of this process, the applicant shall have 10 calendar days to address, in writing, any issues identified by the Case Manager or any referral agency and submit the Hearing Documents for the tentatively scheduled hearings. The applicant will be deemed to have consented to later hearing dates if the Hearing Documents are not received within the 10 calendar day period. (orig. 2-22-00; am. 10-25-05; am. 5-20-08)

The applicant shall have a maximum of 180 calendar days to respond to the referral comments or to submit the Hearing Documents, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fee and documents. The Director of Planning and Zoning may extend this 180 calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 2-22-00; am. 12-17-02; am. 10-25-05; am. 5-20-08; am. 10-13-09; am. 12-21-10; am. 07-17-18)

10. Hearings Scheduled:

a. Planning Commission Hearing: If the applicant has consented to later hearing dates based on the time frames of this Regulation, the Planning Commission hearing will be scheduled for the first available hearing date after 21 calendar days from the submittal of the Hearing Documents. (orig. 2-22-00; am. 12-17-02; am. 10-25-05; am. 5-20-08)

b. Board of County Commissioners Hearing: The Board of County Commissioners hearing is typically

scheduled for the first available hearing date after 19 calendar days from the Planning Commission hearing; however, Staff may choose an alternative hearing date to accommodate case processing and scheduling needs. (orig. 2-22-00; am. 12-17-02; am. 10-25-05; am. 5-20-08; am. 07-17-18)

11. Hearing Preparation

- a. Revisions to Documents Prior to Hearing: To ensure completeness and to allow adequate public review, no substantial revisions or additions, except in response to a Staff request or those specifically requested by the Planning Commission or the Board of County Commissioners, may be made to any application or supporting documents within 21 calendar days prior to any hearing. (orig. 2-22-00; am. 12-17-02; am. 4-27-04; am. 10-25-05; am. 5-20-08)
- b. Notification: Notification of the scheduled hearings is required in accordance with the notification provisions of this section. (orig. 10-13-09)

**Public Hearings and Post Hearing Review**

12. Planning Commission Hearing: The Planning Commission shall review the request and the Staff report, receive testimony and evidence on the application, and shall recommend approval, conditional approval, or denial of the request to the Board of County Commissioners. The Planning Commission may continue the request for no more than 40 calendar days without the consent of the applicant. The continuance of a request will typically be to a date certain, however, a continuance without a specific hearing date may be granted when it is not clear how long it will take for the applicant to address the issues associated with the continuance. (orig. 2-22-00; am. 12-17-02; am. 10-25-05; am. 5-20-08; am. 12-21-10)

13. Board of County Commissioners Hearing: The Board of County Commissioners shall review the request, Staff report, and the Planning Commission recommendation, receive testimony and evidence on the application, and shall approve, conditionally approve or deny the application. The Board of County Commissioners may continue the request for no more than 40 calendar days without the consent of the applicant. The continuance of a request will typically be to a date certain, however, a continuance without a specific hearing date may be granted when it is not clear how long it will take for the applicant to address the issues associated with the continuance. (orig. 2-22-00; am. 10-25-05; am. 5-20-08; am. 12-21-10)

14. Post Hearing Review

- a. Official Development Plan (ODP) or Special Use Document (SUD): The applicant shall have 28 days after Board of County Commissioner's approval to submit a 'clean' copy of the approved red-marked ODP or SUD, and to pay the recordation fees. The Case Manager will have 7 days to review the submitted document. If the revisions have been made in accordance with the approval conditions, the Case Manger will affirm and record the document(s), as appropriate. If the submitted documents are not in conformance with the approved red-marked ODP or SUD, the red-marked document shall be recorded by the Case Manager. (orig. 5-21-19)
- b. Standard Zone District: The Board of County Commissioners resolution shall be recorded within 7 calendar days after approval. (orig. 2-22-00; am. 12-17-02; am. 10-25-05; am. 5-20-08)
- c. If an application needs to return to hearing for a non-substantial change that does not materially affect the content of the approved application, then the Director of Planning and Zoning may allow the application to proceed directly to a hearing before the Board of County Commissioners without a hearing before the Planning Commission. (orig. 4-20-10; am. 12-21-10)

15. Rehearing of Rezoning and Special Use Cases

- a. Upon denial of a Rezoning application by the Board of County Commissioners, the applicant may petition the Board within 1 year of the Board's decision, requesting a rehearing of its application if there is a substantial change. Said petition shall be comprehensive in delineating all proposed changes. (orig. 7-11-66; am. 2-7-72; am. 7-21-81; am. 12-6-82; am. 12-17-02; am. 10-25-05)
- b. The Board of County Commissioners at its sole discretion may grant a petition for rehearing where it determines that a substantial change is being proposed that could significantly affect one or more of the reasons for denial of the original case. The Board may deny the petition solely upon the contents of the petition or when deemed advisable by the Board upon the petition and evidence presented. Discussion of such petition may occur at a regularly scheduled Board of County Commissioners briefing. Public testimony will not be allowed during such meeting. (orig. 7-21-81; am. 12-6-82; am. 7-1-03)
- c. If the Board of County Commissioners grants a rehearing petition, Planning and Zoning Staff will

determine any referrals that will be needed to allow the appropriate review of the proposed changes, and to establish the hearing schedule. Public notice of the hearings shall be given as set forth in the rezoning provisions. Planning and Zoning shall present the amended application to the Planning Commission and the Planning Commission shall review and make a recommendation thereon, prior to the date of the Board of County Commissioners rehearing. (orig. 7-21-81; am. 12-6-82; am. 12-17-02; am. 4-27-04; am. 5-20-08; am. 5-21-19)

- d. After conducting the rehearing, the Board of County Commissioners shall approve, conditionally approve or deny the Rezoning application as amended based upon the evidence submitted at the rehearing together with the relevant evidence received at the prior hearings on said application. (orig. 7-21-81; am. 10-25-05)
- e. No petition for rehearing may be granted where the decision of the Board of County Commissioners on the Rezoning application has been appealed or contested in any court of law or during the pendency of said court action. (orig. 7-21-81; am. 12-17-02; am. 10-25-05)

#### **D. Criteria for Decisions for Rezoning and Special Use Applications**

In reviewing proposed Rezoning and Special Use Applications, the Planning Commission and the Board of County Commissioners may consider the following criteria: (orig. 7-1-03; am. 5-21-19)

- 1. The compatibility with existing and allowable land uses in the surrounding area. (orig. 7-1-03; am. 5-21-19)
- 2. The degree of conformance with applicable land use plans. (orig. 7-1-03; am. 5-21-19)
- 3. The ability to mitigate negative impacts upon the surrounding area. (orig. 5-21-19)
- 4. The availability of infrastructure and services. (orig. 5-21-19)
- 5. The effect upon the health, safety, and welfare of the residents and landowners in the surrounding area. (orig. 7-1-03)

#### **E. Criteria for Rezoning Open Space within the Planned Development Zone District**

- 1. Except as set forth in paragraph b. below, requests to rezone all or any portion of a property designated in the Planned Development Zone District as open space, conservation, preservation, or other similar term to a classification that would permit development may be granted only if the applicant shows to the satisfaction of the Board of County Commissioners that the open space designation is not warranted because: (orig. 8-31-93)
  - a. The property has none of the following features: (orig. 8-31-93)
    - (1) Significant or desirable wildlife habitat or migration routes. (orig. 8-31-93)
    - (2) Rare or unusual vegetation or ecosystems. (orig. 8-31-93)
    - (3) Remarkable geologic features such as rock outcrops or formations. (orig. 8-31-93)
    - (4) Historic resources. (orig. 8-31-93)
    - (5) Significant views or view corridors. (orig. 8-31-93)
    - (6) Riparian and/or wetland areas. (orig. 8-31-93)
    - (7) Bodies of water, except those constructed for utilitarian purposes which are no longer needed for that purpose and which were not intended also to provide wildlife habitat. (orig. 8-31-93)
    - (8) Trail corridors, such as existing trails, trail easements, or trail connections shown on an ODP. (orig. 8-31-93)
  - b. The open space area was not set aside as an integral part of the overall development, rather than designated as "open space" because future development was unknown or unplanned at the time of zoning to Planned Development. (orig. 8-31-93)
  - c. The property is not being used for active or passive recreation by the surrounding community. (orig. 8-31-93)
  - d. The open space was not designated as the result of a density transfer or other adjustment to allow a higher density elsewhere. (orig. 8-31-93)
  - e. The open space was not part of a Rural Cluster development. (orig. 7-1-03)

2. Property not eligible for Rezoning under the Open Space Rezoning criteria may only be rezoned where all of the following exist. (orig. 8-31-93; am. 12-17-02)
  - a. The Rezoning request includes additional land in the same vicinity which land would replace the lost open space value set forth above with land that is superior in open space quality. (orig. 8-31-93)
  - b. The applicant has given notice of the Rezoning request by first class mail, return receipt requested, to property owners, registered associations, the Colorado State Division of Wildlife, local park and recreation district, and other referral agencies, as determined by Planning and Zoning. This provision does not supersede notice requirements set forth elsewhere in this Zoning Resolution. (orig. 8-31-93; am. 4-27-04; am. 5-20-08)
3. Nothing set forth above shall require the Board of County Commissioners to grant a Rezoning request which meets the criteria set forth above where the Board of County Commissioners determines that such request is not in the best interests of the present and future inhabitants of Jefferson County or is not in conformance with the Rezoning criteria set forth elsewhere in this Zoning Resolution. (orig. 8-31-93)

**F. Limitations upon Rezoning Applications**

1. Non-contiguous properties may not be rezoned to Planned Development within a single rezoning application. For the purposes of Rezoning Applications, contiguous shall be defined as a common or shared boundary or tract wide enough to provide sufficient access in accordance with the access requirements in the General Provisions Section. Properties on opposite sides of local, collector or arterial streets/roads shall not be considered contiguous. The Director of Planning and Zoning may allow non-contiguous parcels to be processed as a single Planned Development Application if in his or her opinion the processing of a single application would be appropriate. If the Director of Planning and Zoning makes such a determination, the applicant(s) will be required to pay the standard application fee for each non-contiguous parcel. (orig. 5-20-08; am. 10-13-09; am. 12-21-10)
2. The boundary of the area subject to Rezoning may not be drawn to result in contiguous property under the same ownership that does not conform to the zone district standards applicable to said contiguous parcel. (orig. 9-11-90; am. 10-25-05)
3. Except as provided in the "Rehearings of Rezoning Cases" portion of this section, no Rezoning application shall be accepted for a Rezoning to the same zone district for the same parcel of ground or portion thereof for which a previous application has been denied by the Board of County Commissioners within 1 year prior to the date of filing of said application. (orig. 7-11-66; am. 2-7-72; am. 7-21-81; am. 10-25-05)
4. A Rezoning application shall not be accepted for any lot, parcel, tract of land or portion thereof where a court action brought by the applicant is pending against the County contesting the existing zoning or any previous Rezoning decision of the Board of County Commissioners thereon. (orig. 7-24-72; am. 7-21-81; am. 7-1-03; am. 10-25-05)
5. A Rezoning application shall not be accepted by Planning and Zoning as long as there is a pending application for Rezoning or Special Use of said premises before the Planning Commission or the Board of County Commissioners. However, nothing herein shall prevent amendment of a pending application before the Planning Commission or the Board of County Commissioners by the applicant, except amendment to a new zone district or Special Use that is more restrictive than the original request will require that the pending application be withdrawn and a new application be submitted in accordance with the "Rezoning Procedures," portion of this section. (orig. 7-11-66; am. 2-7-72; am. 7-21-81; am. 12-17-02; am. 7-1-03; am. 4-27-04; am. 10-25-05; am. 5-20-08)

**G. County-Initiated Rezoning**

The Planning Commission and/or the Board of County Commissioners may, at any time, direct Planning and Zoning to initiate Rezoning for any parcel or parcels of land within the unincorporated area of Jefferson County. Notwithstanding any provisions of this section to the contrary, County Initiated Rezoning procedures shall be only in accordance with the provisions of Section 30-28-116, C.R.S. 1973, or as amended. (orig. 12-17-74; am. 7-21-81; am. 12-17-02; am. 4-27-04; am. 5-20-08)

**H. Limitations upon Special Use Applications**

1. The lot, parcel, or boundary area subject to the Special Use must conform to the minimum lot and building standards of the underlying zone district. (orig. 9-11-90; am. 10-25-05, am. 10-13-09; reloc. 07-17-18)
2. Except as provided in the "Rehearings of Rezoning and Special Use Cases" portion of this section, no Special Use application shall be accepted for the same Special Use for the same parcel of ground or

portion thereof for which a previous application has been denied by the Board of County Commissioners within 1 year prior to the date of filing of said application. (orig. 7-11-66; am. 2-7-72; am. 7-21-81; am. 10-25-05; reloc. 07-17-18)

3. A Special Use application shall not be accepted for any lot, parcel, tract of land or portion thereof where a court action brought by the applicant is pending against the County contesting the existing zoning or any previous Special Use decision of the Board of County Commissioners thereon. (orig. 7-24-72; am. 7-21-81; am. 7-1-03; am. 10-25-05; reloc. 07-17-18)
4. A Special Use application shall not be accepted by Planning and Zoning as long as there is a pending application for Rezoning or Special Use of said premises before the Planning Commission or the Board of County Commissioners. However, nothing herein shall prevent amendment of a pending application before the Planning Commission or the Board of County Commissioners by the applicant, except amendment to a new zone district or Special Use that is more restrictive than the original request will require that the pending application be withdrawn and a new application be submitted in accordance with the "Special Use Procedures," portion of this section. (orig. 7-11-66; am. 2-7-72; am. 7-21-81; am. 12-17-02; am. 7-1-03; am. 4-27-04; am. 10-25-05; am. 5-20-08; reloc. 07-17-18)