



PLANNING COMMISSIONER HANDBOOK

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OVERVIEW

The Town of Frisco is a home rule community. In Colorado, home rule communities have all powers necessary for the self-government and administration of its local and municipal matters through their governing body's charter.

Frisco's Town Charter requires that the Town update and adopt its Master Plan every five years. The Master Plan is the comprehensive planning document that provides a guiding vision for the future of Frisco. The plan outlines goals that the community wishes to achieve, along with action items to implement the goals. The Town then utilizes new regulations, policies or plans to help achieve the plan's stated goals.

Zoning regulations establish parameters that govern the use, placement, spacing, size and other characteristics of land and buildings. Subdivision regulations control the way land and ownership is divided in the Town. Together, the master plan and regulations guide the appointed and elected officials when setting policy direction and making decisions.

The Planning Commission is the Town land use board. It predominately utilizes the zoning and subdivision regulations to make decisions regarding proposed development and subdivision projects in Frisco.

THE FOLLOWING DOCUMENT IS INTENDED TO PROVIDE MEMBERS WITH GENERAL INFORMATION TO HELP MEMBERS FEEL COMFORTABLE IN THEIR ROLE AS PLANNING COMMISSIONERS.

THANK YOU FOR VOLUNTEERING YOUR TIME AND EFFORT TO SERVE YOUR COMMUNITY ON THIS IMPORTANT TOWN BOARD!

"TOP TEN TIPS" FOR PLANNING COMMISSIONERS

FROM THE PLANNING COMMISSIONERS JOURNAL

LISTEN

EDUCATE YOURSELF

BE POLITE... AND PATIENT

ASK QUESTIONS

DO YOUR HOMEWORK

AVOID EX PARTE CONTACTS

RECOGNIZE CONFLICTS OF INTEREST

ATTEND... AND CONTRIBUTE

MAKE A DIFFERENCE

THE ROLE OF FRISCO PLANNING COMMISSION

The Frisco Planning Commission is a seven-member board appointed to four-year terms by the Frisco Town Council. The Planning Commission meets the first and third Thursday of every month at 5:00 pm, at Frisco Town Hall. Meetings will not be held if there are no agenda items.

The primary role of the Planning Commission is centered on review of proposed development projects, and maintaining the Town's adopted Master Plan.

☒ **Review Board**

The Planning Commission's primary role is that of land use review body for planning applications made to the Town, as brought before the Commission in individual staff reports. In its role as a quasi-judicial body, the Planning Commission has full approval authority over multi-family and commercial development applications, conditional uses, preliminary plats and variances. The Planning Commission forwards recommended actions to Town Council on planned unit developments, code amendments, rezoning, and annexation applications. The Town Code allows a number of zoning and subdivision applications to be reviewed and approved by staff; including single-family residences, duplexes, tenant finishes, and minor re-subdivisions.

For each application brought before Planning Commission, the Commissioners evaluate information from the applicant, Town departments and planning staff, take public comments, and make a final decision or recommendation. The Planning Commission should ask detailed questions so that it has all the information it needs to make a decision or recommendation, in order to ensure the proposal meets all applicable Town codes. A Planning Commission decision is subject to appeal or call-up to the Town Council. A Planning Commission recommendation to Town Council may be followed by Council, reversed or modified.

☒ **Master Plan**

The Planning Commission's other primary function is to assist in the preparation, completion and revision of a Master Plan for the future of the Town. Updates are done on a regular basis so that the Plan continually reflects the goals of the community and the current land use patterns. The Town Charter requires that the Town's Master Plan be updated every five years. The current Master Plan is the Frisco Community Plan, adopted in 2019.

Who does the Planning Commission Represent?

A Planning Commission member does not have a particular electorate as does an elected official. The Planning Commission represents the whole community and often times plays an advisory role to the elected officials on Town Council. Its principal responsibility is as the land use board for Frisco.

How does the Planning Commission interact with the Planning Department?

Frisco's Planning Department is the Planning Commission's research staff. The planners advise the Commission, provide background information and can help explain or answer technical questions on zoning and subdivision regulations. Written reports are provided in advance of an application hearing,

and staff encourages Planning Commission members to contact them with any questions or additional information needed prior to a meeting. A planning staff person will always be in attendance at Planning Commission meetings, and can facilitate and organize the attendance of any other professional staff which may be requested for a meeting.

Other Roles of the Planning Commission

☒ **Encourage Citizen Involvement**

Vital to any planning process is citizen involvement and input. The Planning Commission should actively seek this input, particularly during revisions to the Town's Master Plan. It then acts as a feedback mechanism, informing the Town Council as to the community's vision and direction, and where the community's best long-range interests lie.

☒ **Effects on Neighboring Areas**

The Planning Commission needs to be aware of activities in neighboring jurisdictions (unincorporated Summit County, US Forest Service, Copper Mountain, etc.) and should strive toward encouraging positive working relationships with other entities, such as the County's Ten Mile Basin Planning Commission. This type of involvement with neighboring agencies on planning related projects is important.

Statutory Requirements of the Frisco Planning Commission

Colorado statutes outline the responsibilities of a planning commission (C.R.S. 31-23-201 to 226), and require that when a planning commission is created, its powers and functions be outlined in the town's municipal code. In Frisco, the powers of Planning Commission are expressed in Chapter 41 of the Frisco Town Code and Section 13-3 of the Frisco Home Rule Charter.

Pursuant to the Frisco Town Code, the Planning Commission shall consist of seven-members appointed by the Town Council. The term of each appointed member shall coincide with the terms of office of the Town Council. Any member who fails to attend three consecutive regular meetings or who misses any six regular meetings in a twelve-month period shall be removed from the Commission unless the Council finds unusual circumstances justifying the absence. Any such removal or resignation shall cause the Town Council to appoint a new member to fill the unfinished portion of the vacated terms.

The Planning Commission is also subject to the Code of Ethics, Chapter 15 of the Town Code. The purpose of this chapter is to define parameters of honest government and prohibit the use of public office for private gain. It is recommended that Commissioners review the Code of Ethics periodically.

ZONING, BUILDING AND SUBDIVISION

ZONING

ZONING IS THE DELINEATION OF LAND AREAS INTO DISTRICTS AND THE ESTABLISHMENT OF REGULATIONS GOVERNING THE USE, PLACEMENT, SPACING AND SIZE OF LAND AND BUILDING DEVELOPMENT WITHIN THESE AREAS.

Zone Districts. Frisco is divided into different districts according to existing principal land uses, and the suitability of the land for those activities. Zoning Regulations are included in the Frisco Unified Development Code (UDC), which is Chapter 180 of the Frisco Town Code. In Frisco, there are 13 zone districts:

- **Residential Single-Household (RS) District**, UDC § 180-3.3
- **Residential Traditional Neighborhood (RN) District**, UDC § 180-3.4
- **Residential Low Density (RL) District**, UDC § 180-3.5
- **Residential Medium Density (RM) District**, UDC § 180-3.6
- **Residential High Density (RH) District**, UDC § 180-3.7
- **Gateway (GW)**, UDC § 180-3.8
- **Commercial Oriented (CO)**, UDC § 180-3.9
- **Light Industrial (LI)**, UDC § 180-3.10
- **Central Core (CC)**, UDC § 180-3.11
- **Mixed-Use (MU)**, UDC § 180-3.12
- **Open Space (OS)**, UDC § 180-3.13
- **Parks and Recreation (PR)**, UDC § 180-3.14
- **Public Facilities (PF)**, UDC § 180-3.15

Zoning Regulations. Descriptions of all districts, uses allowed within them, and standards governing them are included in the Chapter 180 of the Town Code, also referred to as the Unified Development Code, or UDC. All development and construction must conform to regulations outlined in the UDC. Any change or addition to the UDC is brought before the Planning Commission in the form of an ordinance. Planning Commission passes along its recommendation to Town Council, and once finalized (with two hearings before Town Council), the ordinance then becomes part of the development code.

Regulation of Zone Districts. Each zone district has specific permitted and conditional uses. A permitted use is any use allowed in a zone district, and is subject to the restrictions applicable to that zone district. A conditional use is a use permitted in a particular zone district upon showing that such use will comply with all conditions and standards for the location or operation of the use, as noted in Section 180-2.5.2

of the UDC, subject to Planning Commission approval. Each zone district also outlines specific development standards such as density, building height, setbacks and lot coverage.

Flexibility in Zoning. On occasion, situations arise where the regulations cannot be strictly applied. This can be because of conditions of the land, unusual circumstances that were not evident when the ordinances were adopted, or new conditions. Procedures have been incorporated into the Town Code to deal with such situations:

- **Rezoning.** Section 180-2.4 of the UDC. The zoning of a piece of property can be changed to another classification, after certain criteria are met. Applications are heard by both Planning Commission and Town Council.
- **Variance.** Section 180-2.7.3 of the UDC. Relief from a specific requirement, other than use, can be changed on a case by case basis as granted by the Planning Commission.
- **Conditional Uses.** Section 180-2.5.2 of the UDC. Uses contemplated in the district can be pursued but only after specific criteria are met, if approved by the Planning Commission.
- **Planned Unit Developments.** Chapter 180-28 of the Town Code. A PUD is an overlay zone, which is a rezoning and allows relief from zone district requirements in exchange for additional open space and other community goals, and is heard by Planning Commission and Town Council.

Nonconforming Structures and Uses. In certain instances changes or amendments to the Code cause a property or use that was originally in compliance with all applicable zoning requirements to no longer be in compliance, and is considered to be legally non-conforming. The Frisco Zoning Chapter allows a nonconforming use or structure to be changed or altered as long as the change does not increase the degree or extent of the nonconformity. For example, an existing house that encroaches into a property setback may be remodeled as long as the new addition is located outside of the currently specified setbacks.

Overlay Zone Districts. An overlay zone district is an area with unique characteristics that is established by the zoning regulations. Special regulations control the type and design of development that can go in the overlay district. In Frisco, there are two overlay districts: a Historic Overlay District (UDC § 180-4.2), and a Planned Unit Development (PUD) Overlay District (UDC § 180-4.3).

Building Codes.

Another method of influencing the quality of Frisco's physical development, is through the building codes. These primarily address structural requirements, minimum quality of materials, and the design and construction of the building for health and safety standards. Frisco has adopted the International Building Code for all construction in Town, with the most recent adoption being the 2018 set. The Code also includes the "Summit Sustainable Building Codes", which increase building code standards to beyond the requirements in the International Code set. The Town of Frisco Building Department administers the building codes, and should be contacted directly for specific questions on Building Codes.

Subdivision and Resubdivision

SUBDIVISION IS THE DIVISION OF A TRACT OF LAND BY METES AND BOUNDS INTO TWO OR MORE LOTS, PARCELS OR OTHER DIVISIONS OF LAND FOR SALE OR DEVELOPMENT. RE-SUBDIVISION IS THE ADDITIONAL DIVISION OF ANY EXISTING LOTS, UNITS OR BUILDINGS.

Subdivision regulations control the way land is divided and sold in Frisco. The regulations set standards which subdivisions must meet, in order for the Town to develop in an orderly way, with services and utilities appropriately provided.

Subdivisions must be reviewed according to procedures outlined in the Development Code, specifically Article 7 of the UDC. The following is an outline of these rules:

- ☑ **Preliminary Plat.** The initial plan that consists of a map indicating the proposed layout of the subdivision. It is submitted to Planning Commission for approval and oftentimes a preliminary plat is presented to Planning Commission at the same time as the corresponding development application.
- ☑ **Final Plat.** The final plat consists of a map of all or a portion of a subdivision. A final plat is a staff review, with the potential for appeal to the Planning Commission. Approval of the final plat typically is granted only upon the completion or installation of all improvements or the posting of performance guarantees assuring the completion or installation of such improvements. In Frisco, final approval is required before property can be transferred or sold. All final plats are recorded at the Summit County Clerk and Recorder's office, along with any accompanying covenants, easements or other restrictions on the land.

A final plat may include any of the following subdivisions:

- Duplex
- Townhouse
- Condominium
- Commercial pad
- Land or parcel subdivision

Remember: Preliminary and final plats are required to proceed through the subdivision process. Site Plans indicate the physical layout of the proposed development, and are required for most types of development applications reviewed by Planning Commission.

Development Application Review Process

All development applications that come before Planning Commission must adhere to the following process.

Sketch Plans

All Major Site Plan projects must first present a sketch plan to Planning Commission. A large project is defined as:

Any commercial project occurring on a lot of 10,500 square feet or greater. Or, any residential development occurring on a lot of 21,000 square feet or greater or any development of five or more dwelling units.

Sketch plan presentations are made by the applicant to provide Planning Commission an opportunity for informal and non-binding suggestions and comments on the project. The intent is to provide the applicant with useful information to use when preparing the formal development application for the project. Sketch plan applications must be submitted a minimum of 21 days prior to the Planning Commission meeting at which it will be discussed. Staff does not prepare a written staff report for sketch plans, but does comment on the project along with Planning Commission.

Development Application Review Process

- ☑ All development applications must be submitted to the Planning Department at least 52 days prior to the Planning Commission meeting, with specific deadlines within this timeframe for staff to collect agency comments, public comments and to issue preliminary and final staff reports, and for the applicant to provide necessary additional or revised data.
- ☑ Once the applicant submits all information as identified in the preliminary staff report, staff continues its analysis, provides public notice and issues a final staff report.
- ☑ The final staff report is presented to Planning Commission for review of the application. The report provides an analysis of how the application meets or does not meet all applicable Town Codes and other agencies' requirements, provides specific findings on whether or not the application meets each code section, and typically provides a recommendation for approval or denial of the application.
- ☑ Final staff reports and all associated plans are generated for Planning Commission approximately one week prior to the meeting date.

Public Hearings and Meetings

A PUBLIC HEARING IS HELD BY THE PLANNING COMMISSION, TO OBTAIN PUBLIC INPUT ON A PROPOSAL BEFORE THE COMMISSION MAKES ITS DECISION.

PUBLIC COMMENTS ARE REQUIRED TO BE SOLICITED DURING A PUBLIC HEARING. A PUBLIC MEETING IS MORE INFORMAL AND CAN BE HELD TO DISCUSS MATTERS AFFECTING THE COMMUNITY, FOR EXAMPLE MEETINGS HELD TO UPDATE THE TOWN'S MASTER PLAN.

Organizing Hearings and Meetings

Successful hearings and meetings do not just happen, they must be well organized and well run. Whether an informal town meeting or a very structured public hearing, the session will be more successful if the following eight points are kept in mind:

Purpose: All Planning Commission meetings to review development applications are public hearings.

For public meetings, the chairperson should know what is desired from the meeting and should explain that to the participants at the beginning. During the update to the Town's Master Plan, typically many public meetings are held.

Notice: Public hearings are required to be advertised in the newspaper and notices distributed to property owners within 300 feet of the subject property. Frisco Town Code outlines the procedures that must be followed for public notice, and it is planning staff's duty to ensure all noticing requirements are met for each application.

For public meetings to gather citizen input, widespread announcement of the meeting is essential. Newspaper articles, flyers, word of mouth and the Town's website are ways public meetings tend to be advertised in Frisco.

Agenda: Public hearings and meetings need clear and fair rules about the sequences and procedures to be followed.

Staff is responsible for organizing each Planning Commission agenda based on the applications to be heard during that public hearing. A reasonable meeting length is assured, of no longer than approximately four hours, given staff's ability to set the agenda.

Participants: During each Planning Commission public hearing, there is a comment period during which public comments on each development application are heard.

Results and Decisions: All decisions made during public hearings on applications before Planning Commission are considered 'quasi-judicial.' Each Commissioner must "act as a judge" and remain impartial when making any quasi-judicial decision, and base the decision on whether or not the application meets all applicable requirements stated in the Town Code. Legislative decisions on the other hand, such as ordinance review affect the entire community with policies and rules, and require each Planning Commission member to be a good community steward.

Regardless of whether a hearing or other type of public meeting, at the conclusion, time should be taken to reflect and evaluate what was accomplished. Sometimes the results will be general -- problems raised, issues defined, feelings expressed, future direction clarified. At other times the results will be specific and easily identified.

Records: As stated before, planning is a public activity and a record of the proceedings must be kept. Frisco's Planning staff records each Planning Commission public hearing. Minutes are then generated, reviewed and approved by Commissioners.

Do's of Public Hearings

- ✓ DO review all packet information and receive clarification from staff, if necessary, prior to the hearing.
- ✓ DO visit an applicant's site prior to a Planning Commission meeting at which the application is being considered.
- ✓ DO review development applications and site plans with an open mind.
- ✓ DO treat everyone that comes before the Commission with respect. Listen carefully and consider what they say.
- ✓ DO understand what can truly be considered a work session item versus what should be discussed at a Planning Commission public hearing.
- ✓ DO remember that your staff consists of trained professionals, available to support and advise the Planning Commission.
- ✓ DO consider the broader context when reviewing any application. How will it impact the neighborhood?
- ✓ DO take notes on each speaker. Note down the relevant facts that must be considered in a decision.
- ✓ DO consider that the decisions you make today will be creating a future for your children and generations beyond.

Don'ts of Public Hearings

- ✗ Do NOT talk or meet with the applicant before the public hearing process.
- ✗ Do NOT act outside of your authority as a Planning Commissioner.
- ✗ Do NOT be afraid to ask questions. There are no dumb questions!
- ✗ Do NOT engage in Ex-Parte communications. (See below for additional information on ex-parte communications.)
- ✗ Do NOT think 'flexible' means bending the rules. Ensure you have the authority in your regulations to be flexible.
- ✗ Do NOT be pressured by applicants to hurry through the development review process.

- ✗ Do NOT assume that all applicants are out to take advantage of you and the community.
- ✗ Do NOT act as if an applicant's statements or that of the public are not worthy of consideration.

Ex Parte Contacts

Broadly defined, an ex parte contact is any written or verbal communication initiated outside of a regularly noticed public hearing between an official with decision-making authority and one or more of the parties, concerning a particular subject matter which is under, or which is about to become under, consideration, and which seeks to either influence, or present information relating to that matter.

All parties are entitled to have the matter heard by an impartial person or body. At the very least, ex parte contacts, whether the contacting person is an applicant or a member of the public, call into question the impartiality of the decision maker.

What to Do if Someone Attempts an Ex Parte Contact Before a Hearing

1. **Stop the person.** Advise the person you are sitting as a judge in the matter and you cannot listen to or review anything prior to the hearing. Encourage them to attend the meeting and share the information with everyone.
2. **Disclose the contact.** At the meeting, prior to the hearing on the application, advise the members of Planning Commission of the contact, your response and whether or not you think you can make an impartial decision based on evidence presented at the hearing despite the contact.
3. **Consider if the ex parte contact requires abstention.** An ex parte contact by itself is usually not enough to reverse the final decision or require you to abstain from voting on the application. Each individual contact must be reviewed to determine whether it affects your impartiality or whether it affects the due process or rights of the parties seeking the decision. Planning Commissioners may contact the Frisco Attorney to determine whether any ex-parte contact they may have had requires an abstention.

Conflict of Interest

It is not a conflict of interest to have an opinion. It is only a conflict of interest when you, in the role of Planning Commissioner, act on that opinion for personal gain rather than in the general interest of the Frisco community. Planning Commissioners may contact the Frisco Attorney to determine whether they may have a conflict of interest.

What to Do if you have a Conflict

Colorado law requires that if you have a conflict of interest with a development application that is before the Commission, that you:

1. Disclose the conflict to the members of the Planning Commission prior to the hearing on the application.
2. Abstain from voting on the application.

3. Do not attempt to influence the other members' votes. It is recommended that you remove yourself from the meeting room to further indicate you are not trying to sway the decision one way or the other.

Decision-making

DURING A PUBLIC HEARING, AFTER ALL INFORMATION HAS BEEN PRESENTED ON AN APPLICATION, PLANNING COMMISSION MUST CONSIDER THE ISSUES AND MAKE A FINAL DECISION OR MAKE A RECOMMENDATION TO TOWN COUNCIL.

PRIOR TO THE PLANNING COMMISSION PUBLIC HEARING ON EACH PROPOSAL, it is important that each Commissioner:

- ☒ Read the staff report.
- ☒ Thoroughly review all submitted plans and documents.
- ☒ Visit the site.
- ☒ Contact the staff planner prior to the Planning Commission meeting if there are any questions or if clarification on an item is needed.

Decision-making Procedure

1. The US Constitution states two constitutional rights that must be safeguarded during the decision making process.
 - Equal protection of the law -- the law must be applied fairly and equally to all persons in all circumstances. When distinguishing between things by setting up classes or categories, the distinctions have to be reasonable.
 - Due process of the law -- all parties must be given reasonable notice of the proceedings, must have access to records, must be given a fair opportunity to be heard before the decision is made, and have the right to submit and challenge evidence. For instance, not only can unreasonable delays be ruinous to a developer (the costs of the project keep going up) but these delays can be challenged in court. A proposal cannot be denied by inaction.
2. Making a motion

All factors on which a decision is based must be brought into the discussion of the Planning Commission. Once all Commissioner opinions have been given, a summation of these should be proposed in the form of a motion. Proposing a motion early in the discussion may help members crystallize their opinions and aid them in reaching their decision. Motions can be amended. If the motion is agreeable to the Commission it must be supported with findings and recorded.

Voting is in the form of a simple “yes/no” verbal vote with Commission members giving no reasons for the vote at this time. Reasons for approving or denying a proposal must be stated as a part of the motion (with findings).

For each application that Planning Commission must render a decision, staff generates a staff report on the proposed project. At the end of each staff report is staff’s analysis of whether or not staff interprets the application to meet all applicable Town Codes, and includes specific findings. Planning Commission makes its own determination of whether or not the board finds the applications meets all applicable codes, and should or should not be approved. The staff report helps to synthesize the possible findings and actions.

Remember: The Planning Commission is a lay board representing fellow citizens. All decisions should be made in language that is easily understood.

The Decision

- ☑ Base decisions or recommendations on fact, not on opinion or hearsay.
- ☑ Each proposal must be evaluated on its own merits, always remember that each decision you make is part of a whole, the cumulative effect of all these decisions might be quite different.
- ☑ Base decisions on the Master Plan and the Town Code. This goes a long way to ensure that all decisions are consistent, predictable, and legally defensible.
- ☑ Clearly define the major issues involved in each proposal, and address them before making a motion or sending a recommendation to the Town Council.
- ☑ A decision or the Commission’s recommendation to the Town Council needs to be accompanied by the pertinent facts and the main factors on which the Commission based its decision.
- ☑ The Planning Commission must be objective, find an acceptable ground between competing interests, and base its decisions on the Town’s land use regulations.

Planning Terms

THE FOLLOWING PROVIDES A GENERAL LIST OF PLANNING RELATED TERMS. FOR ADDITIONAL AND DEFINITIONS SPECIFIC USED IN FRISCO’S ZONING AND SUBDIVISION REGULATIONS, REFER TO THE TOWN CODE, SECTION 180-9, DEFINITIONS.

Accessory Use: A building or activity that is secondary to the main use on the same site.

Annexation: Incorporating adjacent land into a municipality or special district.

Building Codes: The types of materials, wiring, plumbing, and performance standards which are to be used when constructing or altering buildings. A municipality adopts its own building code which must be complied with before a building permit is issued.

Building Envelope: The space on a lot on which a building can be built after allowing for setbacks, and bulk requirements; also a building site in a planned unit development.

By-laws: A set of rules of procedure that regulates a homeowner association's internal affairs and facilitates its discharging of responsibilities.

Code: A set of regulations adopted by ordinance, by the jurisdiction. The most common codes in planning are the Zoning Code, regulations establishing and explaining zoning classifications, and the subdivision code.

Common (Party) Wall: A wall shared by two dwelling units. The units are "attached" rather than "detached" or freestanding.

Conditional Use: These are uses that will be considered in a zone district only after certain conditions are met. These conditions are designed to safeguard the neighboring properties. Once the conditions are satisfied, approval must be given allowing the use.

Cut and Fill: Excavating soil and rock from one area and depositing it as fill to build up an adjacent place.

Dedication: Private property or easements being given to the public for use by an owner and the governing body accepting the land for the use specified. Often the approval of a development proposal is subject to the dedication of adequate land for roads, schools, parks, and other community facilities. In some jurisdictions, developers may make cash payments in place of land dedication.

Due Process of Law: Justice in proceedings of law, i.e. allowing all parties reasonable notice of proceedings, giving access to records, a fair opportunity to be heard before a decision is made, and the right to submit and challenge evidence. Planning cases are frequently appealed in courts on due process grounds, making it important that good records be kept of all notices of hearings, the proceedings, and decisions made at hearings.

Easement: Right of access without acquiring property. A jurisdiction will often acquire easements from property owners in order to put in and maintain utilities, or preserve open space over time.

Eminent Domain: The power of government to take private property for public use without the owner's consent when it promotes the health, welfare and safety of the public. Just compensation must be paid to the property owner, and is usually determined by appraisals which establish the market value of the land.

Ex-parte Contact: Broadly defined, an ex parte contact is any written or verbal communication initiated outside of a regularly noticed public hearing between an official with decision-making authority and one or more of the parties, but not all of the parties, concerning a particular subject matter which is under, or which is about to become under, consideration by that official, and which seeks either to influence, or present information relating to, that matter which is the subject of the decision. The term is applicable to any quasi-judicial (*please see "legislative action" below*) matter pending before a local governmental body.

Finding: A determination of facts; an examination of circumstances beyond immediate appearances; the relationship between facts that enables a decision. Findings must always be a part of a motion.

Floodplain: An area in and adjacent to a river, stream or lake which is subject to flooding as the result of a 100-year flood.

Floodway (Federal flood insurance definition): The channel of a stream, plus any adjacent floodplain areas, that must be kept free of man-made encroachment or changes, in order that the 100-year flood can occur without increasing flood heights more than 1 foot.

Goals, Objectives, Policies, and Proposals: A GOAL is a statement of values or conditions wanted by the citizens of an area. They are ideals, and provide the basis for subsequent objectives and policies.

An OBJECTIVE is a realistic and achievable statement of what is to be accomplished. It relates to an issue or subcategory within the goal statement.

A POLICY indicates action that will be taken to meet the objective and goal. It forms the basis on which detailed decisions must be made.

A PROPOSAL (program) is a specific plan or program outlining how a policy will be accomplished.

Highest and Best Use: An often misused term. It means that most appropriate use for the town and a particular site in terms of services, location, surrounding uses, etc. The phrase is often used by landowners and developers. They state that they have the right to use land in such a way as to bring the maximum amount of profit to the landowner. Use of land in this manner does not take into account the cumulative effects of every property owner attempting to do the same or the effects of this on other properties. Planning regulations such as zoning limit the use of land, mitigating and minimizing costs to the community. There is no constitutional right to use land in order to maximize profits.

Home Rule: State legislation allows the citizens of jurisdictions (towns, cities, and counties) to adopt a charter that outlines the powers and functions of the local government. If these ordinances are more strict than state legislation, they take precedence. Home rule allows a community more flexibility for dealing with its unique problems and characteristics.

Incentive: A provision within a development regulation that grants relief from specific compliance upon condition that certain features of a proposal are altered so as to secure some community benefit, convenience, or use by the public.

Legislative Action and Quasi-judicial action (according to Colorado Rules of Civil Procedure):

Legislative action is usually reflective of some public policy relating to matters of a permanent or general character, is not normally restricted to identifiable persons or groups, and is usually prospective in nature. An example of a legislative action would be the enactment of an ordinance.

Quasi-judicial action, on the other hand, generally involves a determination of the rights, duties, or obligations of specific individuals on the basis of the application of presently existing legal standards or policy considerations to past or present facts developed at a hearing conducted for the purpose of resolving the particular interests in question. Deciding upon a specific development proposal is an example of a quasi-judicial action.

Lot Coverage: The percentage of total lot area used for parking, roads, drives or covered by structures.

Market Value: The price a willing buyer will pay a willing seller for a piece of property and/or structure. Estimated market value is used in condemnation proceedings and property tax assessment.

Master Plan: The plan is an advisory document adopted by the local elected officials that outlines policies that will guide the long-term development of the community. The focus is on physical development, but often includes policies on the social and economic development of an area. The Master plan is used by elected officials, planning commissions, private firms and individuals when making decisions affecting development of a jurisdiction. Periodic update and revision (usually every 3 to 5 years) is required in order for the comprehensive plan to reflect community desires and changed conditions. The terms “Master Plan,” and “General Plan” are often used interchangeably with “Comprehensive Plan.”

Moratorium: A freeze on new development for a specified purpose to allow time to construct adequate public facilities such as water and sewage treatment plants, or complete plans and regulations.

Nonconforming Use: An existing building or use that existed prior to the adoption of zoning in an area or new regulations, and would not be permitted in that location by the present district’s zoning regulation. Usually, zoning regulations will allow a use to continue, but will not allow it to be expanded, or replaced by another nonconforming use.

Nuisance: Any activity that causes substantial and continuing noxious, offensive or injurious purpose, or damage to the property of others or to the public.

Ordinance: An enactment of a legislative body of a municipal corporation, constituting local law. Per the Town’s Home Rule Charter, any direct burden upon or direct limitation on the use of private property shall be by ordinance.

Petition: A formal, written request for specific action from a group of individuals to a governmental body. Each petition should specify the action sought, give reasons, and clearly identify individual petitioners.

Planned Unit Development (PUD): A zoning tool that allows a developer to mix different types of land uses in a development. Standards are applied to the whole project rather than to individual lots, allowing clustering of houses, more open space, and relief from zone district requirements such as lot size, dimensional requirements, type of use, density, lot coverage.

Police Power: The power of a government to pass and enforce laws to protect the health, welfare, safety, convenience and comfort of the whole community. This is achieved by limiting individual behavior and regulating the use of property. Use of this power must be reasonable and give due process of the law.

Property Rights: Rights gained by a property owner to use the property and control who has access onto it. In certain circumstances, extreme use of property rights can lead to the detriment of the whole community even though the individual property owner benefits. Zoning has the power to regulate generally how land is used as long as the regulations are reasonable and for the good of the community. Contrary to popular myth, there is no constitutional right to use property to maximize private profit.

In Colorado it is common to find rights usually associated with property ownership to be sold independently of the land. Two important examples are mineral rights (the right to extract and use minerals) and water rights (the right of use or drill for water). It is becoming more common to sell or

donate rights of access to public agencies so that the general public can have access to scenic areas or wildlife without purchasing the land.

Public Hearing: A formally announced meeting, the express purpose of which is to receive written and oral testimony on specific matters. It is open to the public both for attendance and for testimony. The information is merely recorded, and there is no cross-examination of testifying parties.

Recommendation: A decision that may be either a positive (prescriptive) statement for the approval of some action or negative (proscriptive) statement of disapproval of some action. Formal recommendations generally carry a recitation of supporting reasons.

Resolution: A formal expression of the will of an official body, adopted by vote. There are also two more specific meanings. In municipalities, a resolution is a legislative expression of will but does not have the character of law. A municipal resolution is not an ordinance. In unincorporated areas, local governmental units hold quasi-legislative/administrative powers and govern by resolution. While not equivalent to state statutes, county zoning resolutions and township zoning resolutions operate under state statutes and are therefore legally binding.

Right-of-way: Permission granted giving access onto or over property. It most commonly refers to the total width of a street and associated sidewalks, bike paths, curbs, gutters and utilities.

Setback: Most commonly, the distance that a building must be from a property line. There are also water quality setbacks. Setback requirements often differ and are included in the zoning code. Their purpose is to allow adequate access, sunlight and air.

Subdivision: The process by which a tract of land is split into smaller parcels, lots, or building sites so that the parcels may eventually be sold, developed, or both. There are also subdivisions of housing units which may be subdivided as a duplex, townhouse, condominium or time-share.

Sunshine Law: A public notice must be given for any discussion of town business in a meeting of three or more Planning Commissioners or Council Members. No town business can be discussed in any gathering of three or more Planning Commissioners or Council Members if public notice is not given prior to the gathering.

Takings: The Fifth Amendment to the Constitution provides in part that private property shall not be taken for public use without just compensation. The Fourteenth Amendment makes that provision applicable to states and their instrumentalities, and most state constitutions contain similar provisions. The constitutional requirement for compensation for takings applies primarily to government seizures of land and other property for public use, which normally takes place through eminent domain proceedings.

Topography: A term that describes characteristics of the surface of land such as plains, hills, mountains, the amount of slope, and other natural features and, using contour lines, shows areas of the land that have the same elevation. The closer the contour intervals are together the steeper is the land.

Variance: The granting of specific and definitive relief from the rigid application of the restrictions of development regulations on findings that extraordinary, or exceptional circumstances of property in question would suffer deprivation of use and enjoyment if such regulations were applied.

Vested Rights: Under good faith, a sizable investment is made based on what is legal at the time. If the regulations are changed, the property owner has a right (vested right) to continue what was being done. For example, buying a property zoned commercial and after the foundations are poured the zoning is changed to residential. The owner has a vested right based on an approved application, to continue with the commercial use. Key points when determining vested rights: the investment must be made in good faith; and, the investment must be sizable.

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