

Section 6. Development Review Procedures

§6.1 PURPOSE

The purpose of this Section is to establish procedures for various development applications that are processed by the City.

§6.2 DEVELOPMENT REVIEW CATEGORIES

There are two types of development review applications: Land Use Development Application and Site Development Application.

A. Land Use Development Applications. Land Use Development Applications include conditional uses, variances, waivers, amendment to the *LDC* or Official Zoning Map, Subdivision/PUD, vacations, and design review applications.

B. Site Development Applications. Site Development Applications include but are not limited to: building and fire code permits; grading permits; applications for development in special flood hazards; applications for the construction or reconstruction, structural alteration, relocation or enlargement of any structure; land disturbances including, but not limited to grubbing or grading; or any change in use to a conforming use. Site Development Applications are subject to administrative approval by the Community Development Director or their assignee. Site Development Applications may be processed if all of the following conditions are met:

1. The proposed site development application is not a Land Use Development Application.
2. The site development is proposed on a legally subdivided lot that has adequate public facilities as defined in §4.1 of this *LDC*.
3. The proposed Site Development Application is in conformance with all provision of Section 1 through Section 5 of the *LDC*, and all technical codes adopted by the City (see Title 14 of the *City of Gunnison Municipal Code*).
4. Performance guarantees following the provisions of §7.7.D of this *LDC* to ensure that required public improvements, general and limited common elements, landscaping and other site development improvements are completed to City standards.

§6.3 STAGES OF THE DEVELOPMENT REVIEW PROCESS

Six designated stages comprise the Development Review Process. Land Use Development Applications are subject to the provision of every defined Stage described below. Site Development Applications are subject to Stages 1, 2, 3, and 6 as set forth below.

- A. Stage 1:** Preapplication conference between the applicant and the Community Development Director or their assignee;
- B. Stage 2:** Submission of the development application by the applicant;
- C. Stage 3:** Staff review of the development application to determine whether it is complete and whether it complies with all applicable development review standards;

- D. Stage 4:** Provision of public notice of a public hearing, when applicable to the particular development process;
- E. Stage 5:** Public action on the development application by the appropriate decision-making body or bodies; and
- F. Stage 6:** Actions following development approval by the applicant prior to obtaining a site development permit.

The subsequent sections of this Section are organized to sequentially describe these six stages of the development review process in complete detail. The following diagram depicts the sequence of the actions which shall be accomplished by the applicant, the staff and the public review bodies to complete the six stages of the development review process. These actions are also explained in the remainder of this Section.

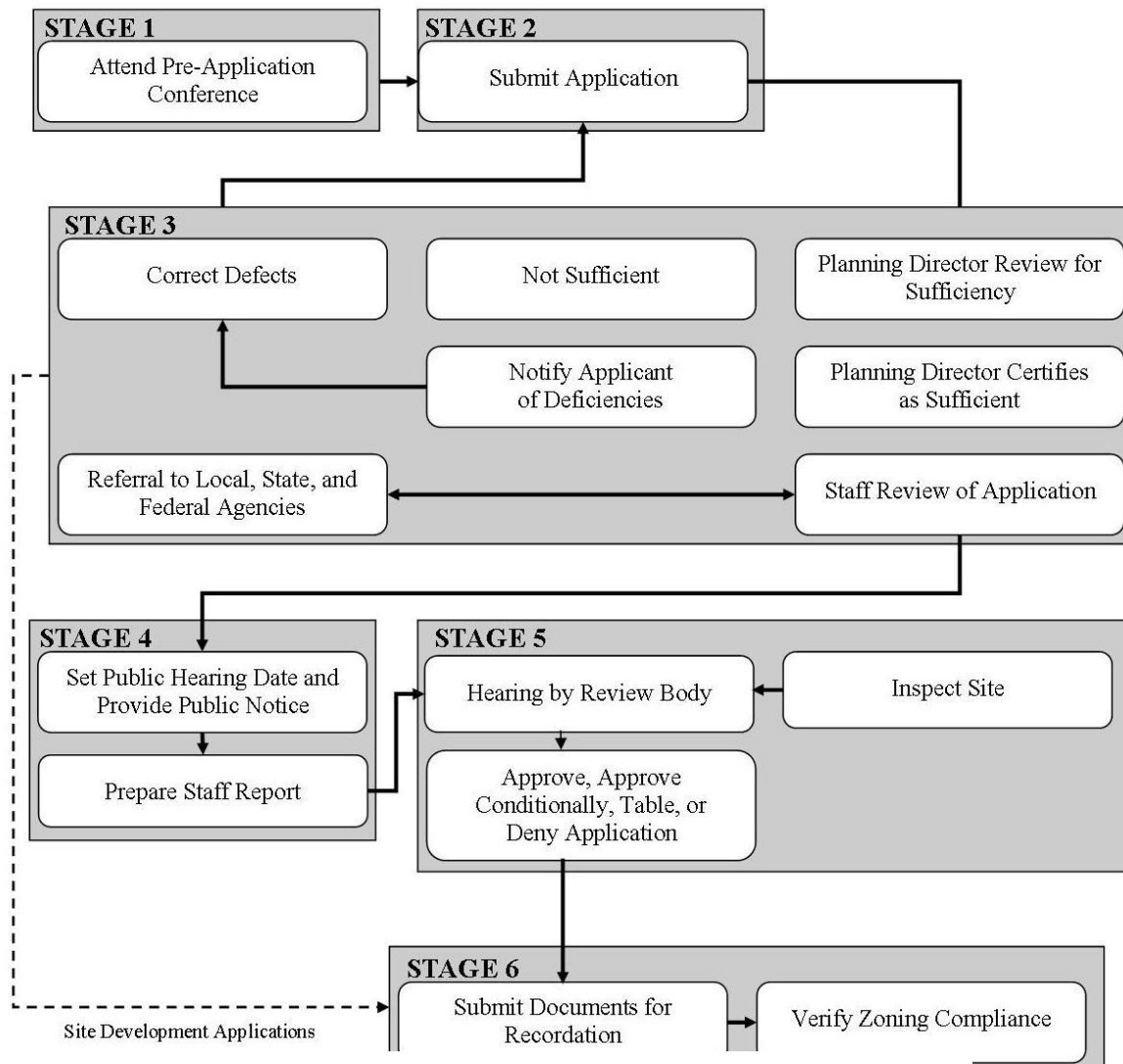


FIGURE 36 STAGES OF THE DEVELOPMENT REVIEW PROCESS

§6.4 STAGE 1: PREAPPLICATION CONFERENCE

- A. Conference.** Prior to filing a development application, the applicant may confer with the Community Development Director to obtain information and guidance as to the City’s development procedures and standards. The preapplication conference is required prior to filing a sketch and preliminary subdivision or PUD application, and is optional, but recommended, for all other development application types.
- 1. Purpose.** The purpose of the conference is to permit informal review of development concepts before substantial commitments of time and money are made in the submission of an application, so the applicant may decide how best to proceed in accomplishing the intended development.
 - 2. Not a Design Service.** The preapplication conference shall not be used as a design service by the applicant. The applicant shall be responsible for preparing an application which contains sufficient information to enable the City to determine its conformance with this *LDC*.
- B. Content of Conference.** Items to be discussed during the preapplication conference may include, but not be limited to, the following:
- 1. Applicant’s Proposal.** The applicant shall provide a verbal description of the proposed development, accompanied by a survey, site plan or other map illustrating the site’s boundaries, and the applicant’s development concepts.
 - a. Preliminary Evaluation.** The applicant may request that the Community Development Director provide a preliminary evaluation of the project’s likely conformance with this *LDC* and the *City of Gunnison Master Plan*. The Director may provide a verbal, preliminary evaluation during the conference or in writing within 15 days thereafter.
 - b. No Reliance Provided.** The preliminary evaluation, and all other comments made by the Community Development Director during the preapplication conference shall not be deemed to provide the applicant with assurance or reliance as to the outcome of the formal development review process.
 - 2. Review Procedure.** The Community Development Director should explain the procedures and review standards which apply to the proposed development, including which decision-making body or bodies will review the application, whether public notice is required and the sequence of actions and approximate time required to complete the development review process.
 - 3. Review Agencies.** The Community Development Director should identify any city, county, special district, state, and federal agencies that will review the proposed development and provide the applicant with the names of persons at these agencies to contact.
 - 4. Application Contents.** The Community Development Director should:
 - a.** describe the materials required to be submitted as part of the application package;
 - b.** provide any applicable City development forms;
 - c.** identify the number of copies of the application to be submitted; and
 - d.** indicate the applicable processing fee.

§6.5 STAGE 2: SUBMISSION OF DEVELOPMENT APPLICATION

- A. Eligibility to Apply.** A development application may only be submitted by, or on behalf of, the owners of real property proposed for development.
- 1. Power of Attorney Authorization.** If the applicant is not the owner of the property, or is a contract purchaser of the property, a letter signed by the owner consenting to the submission of the application shall be submitted.
 - 2. Multiple Property Owner Applicants.** If the applicant is to be represented by an agent, a signed Authorization of Agent Form provided by the City, granting power of attorney to the agent shall be submitted with the application.
- B. Form.** The development application shall be submitted in the form required and shall include the information and materials specified for that particular type of application in the applicable sub-section of this Section.
- 1. Copies.** The correct number of copies of the application shall be submitted as identified during the preapplication conference or by request of the Community Development Director.
 - 2. Nonrefundable Application Fee.** The correct nonrefundable processing fee for the application shall be submitted. The fees for the processing of applications are established by the City Council and are available through the Community Development Department.
- C. Minimum Application Contents.** All development applications shall include, at a minimum, the following information and materials:
- 1. Name, Street and Mailing Address, Telephone Number, and Power of Attorney.** The applicant's name, address and telephone number. If the applicant is to be represented by an agent, a letter signed by the applicant granting power of attorney to the agent shall be submitted, authorizing the agent to represent the applicant and stating the representative's name, street and mailing address and phone number.
 - 2. Legal Description.** The legal description and street address, if such exists, of the parcel on which development is proposed to occur.
 - 3. Disclosure of Ownership.** A disclosure of ownership of the parcel on which the development is to occur, listing the names of all owners of the property, and all mortgages, judgments, liens, easements, contracts, and agreements that run with the land. The disclosure of ownership shall demonstrate, to the satisfaction of the City Attorney, that the applicant has the right to submit the development application.
 - 4. Vicinity Map.** An eight and one-half inch by 11 inch vicinity map locating the subject parcel within the City of Gunnison.
 - 5. Written Description.** A written description of the proposal and an explanation in written, graphic or model form of how the proposed development complies with the review standards applicable to the application, found in the applicable sub-section of this Section.
 - 6. Names and Mailing Addresses of Adjoining Property Owners.** Submittal of a written list of adjoining property owners within 100 feet of the application property boundary is required.

The list will include their mailing addresses, and a map showing the location of these owners' properties in relationship to the proposal. Adjoining property owner information is not required for Site Development applications.

7. **Vested Property Rights.** If the applicant is seeking to obtain approval of a site-specific development for which the creation of vested property rights is requested, the application shall contain a specific request and statement for creation of the vested property rights.

D. Consolidation. The land development review process is intended to encourage efficient processing of applications. Applicants may request, and the Community Development Director may permit, the consolidated submission and review of all necessary development applications for a parcel of land. The Community Development Director is authorized to waive any overlapping application requirements in the consolidated review.

§6.6 STAGE 3: STAFF REVIEW OF DEVELOPMENT APPLICATION

A. Completeness Review. Within five business days of receipt of the application, the Community Development Director shall determine whether the application is complete.

1. **Application is not complete.** If the application is not complete, the Community Development Director or their designee shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.
2. **Application is complete.** If the application is complete, the Community Development Director or their designee shall certify it as complete, affix the date of the application acceptance thereon, and assign the application an agenda date with the applicable review body.
3. **Completeness is not a determination of compliance.** A determination that an application is complete shall not constitute a determination that it complies with the substantive standards of this *LDC*, *City of Gunnison Master Plan*, or other City regulations.

B. Staff Review. Within 30 days from the date of the completeness determination, the Community Development Director shall review the development application to determine its conformance with the requirements of this *LDC*. The Community Development Director may solicit the professional analysis and recommendations of any other agency, organization or technical consultant deemed appropriate and necessary to complete the review, including:

1. **Governmental Entities.** County, state, or federal entities having an interest in or authority over the proposed development or any portion thereof.
2. **Utility Companies and Special Districts.** Utility companies, special service districts serving the proposed development and the school district.
3. **Staff.** Members of the City staff.
4. **Technical Consultants.** Engineers, designers, and legal consultants.

C. Report. Prior to the date of the review body meeting, the Community Development Director shall compile a written report which sets forth how the application complies with, or does not comply with, the applicable standards of this *LDC*. The Community Development Director shall distribute

a copy of the report to each member of the review body and to the applicant, and shall make the report available to the public.

§6.7 STAGE 4: PROVISION OF PUBLIC NOTICE

TABLE 6-1 LAND DEVELOPMENT APPLICATION REVIEW		
Application Type	Decision-Making Bodies	Public Hearing?
LDC Interpretation	Community Development Director	No
Conditional Use, vested property right	Planning and Zoning Commission	Yes
Density Bonus Incentive	Planning and Zoning Commission	Yes
Variance	Zoning Board of Adjustments and Appeals	Yes
Waiver	Community Development Director	No
	Planning and Zoning Commission	Yes
	City Council	Yes
Amendment to Official Zoning Map or text of LDC	Planning and Zoning Commission (recommendation)	Yes
	City Council (decision)	Yes
Major Subdivision/P.U.D.	Sketch Plan – Planning and Zoning Commission (decision)	Yes
	Preliminary Plat – Planning and Zoning Commission (decision)	Yes
	Final Plat – Planning and Zoning Commission (recommendation)	No
	Final Plat – City Council (decision)	No
Minor Subdivision/P.U.D.	Preliminary Plat – Planning and Zoning Commission (decision)	Yes
	Final Plat – Planning and Zoning Commission (recommendation)	No
	Final Plat – City Council (decision)	No
Subdivision Exemption	Community development director (decision)	No
Vacation of subdivision, right-of-way, or easement	Planning and Zoning Commission (recommendation)	Yes
	City Council (decision)	No
Design Review	Planning and Zoning Commission (decision)	Yes
Verification of Zoning Compliance	Community Development Director (decision)	No
Vested Property Right Request	Planning and Zoning Commission (decision)	Yes
	City Council (decision)	Yes

A. Notice Required. Table 6-1 identifies the types of land development applications which shall be considered during a public hearing, and at what step during the review process that hearing shall occur. Public notice shall be provided for each application type that is identified in Table 6-1 as

requiring notice to be given. Notice shall be provided as specified in §6.5 B.

B. Manner of Notice. Public notice shall be given by publication of notice in the newspaper, mailing of notice to all adjacent property owners to the subject property, and posting of notice on the property.

1. Publication of Notice. Publication of Notice shall be accomplished by the Community Development Director or their assignee, which shall place a legal notice in the City's official newspaper. The legal notice shall be published in the newspaper at least 15 days prior to the public hearing.

2. Mailing of Notice. Mailing of notice shall be accomplished by the Community Development Director or their assignee.

a. Certified Mail. Notice shall be sent by certified mail to all adjoining property owners at least 15 days prior to the public hearing.

b. List to be created by Applicant. The list of all adjoining property owners' names and addresses shall be created by the applicant, using the current Gunnison County Assessor's records, and shall be submitted with the application. The list shall include all property owners within 100 feet of the subject property boundary. The applicant shall pay the certified postage for each name on the list to the Community Development Department.

c. Exception for General Amendments to Official Zoning Map. Creation of a list of adjoining property owners and mailing of notice shall not be required whenever the official zoning map is to be amended as part of a general revision of the *LDC* or as part of a City initiative to implement the *Master Plan*. Instead, a map illustrating the proposed amendment shall be published as part of the legal notice for the hearing. A copy of the proposed amended official zoning map shall be available for public inspection in City Hall during normal business hours at least 15 days prior to the scheduled date of the public hearing.

d. Exception for Amendments to *Land Development Code*. Creation of a list of adjoining property owners and mailing of notice shall also not be required whenever the *LDC* is to be amended.

3. Posting of Notice. Posting of notice shall be accomplished by the applicant.

a. Conspicuous Location. The applicant shall post and maintain the notice in a conspicuous location on the subject property.

b. Duration. The sign shall be posted at least 15 days prior to the public hearing. The applicant shall maintain the sign in a legible manner until the closure of the public hearing and shall remove it on the day following closure of the public hearing.

c. Dimensions. The minimum dimensions of the sign shall be 18 inches by 24 inches.

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

e. Exception for Amendments to *Land Development Code*. Posting of notice shall not be

required whenever the *LDC* is to be amended.

C. Content of Notice. Each notice shall contain the following information:

1. **Name and Address.** Name of the applicant and address or legal description of the property.
2. **Type of Application.** The type of development approval sought.
3. **Date, Time and Place.** The date, time, and place of the hearing and name of the decision-making body conducting the hearing.
4. **Summary.** A brief summary of the development proposal.
5. **Other Information.** Such other information as may be necessary to fully apprise the public about the application.
6. **Vested Property Right.** If the development is for a site-specific development for which the creation of vested property rights has been requested, the following statement shall appear: “Final approval of this development will create a vested property right pursuant to article 68 of title 24, C.R.S.”

D. Notice Deemed Valid. The Community Development Director and the applicant shall make all reasonable efforts to comply with the notice provisions set forth in this section. Notice shall be deemed valid if notice was mailed to all property owners, as listed on the last available tax assessment rolls, and if publication and posting has occurred in accord with §6.7 B.2 shall not be considered invalid because of unrecorded or subsequent transfers of title or uncertainties concerning ownership not discernible from the tax assessment rolls.

§6.8 STAGE 5: REVIEW BY DECISION-MAKING BODY

- A. Site Inspection.** Prior to its meeting to consider the development application, the City may, as a group or through a committee appointed for that purpose, inspect the site of the proposed development. Upon reasonable request by the Community Development Director, the applicant shall mark the development site before the site visit is to occur to locate property boundaries, building envelopes and other key site development features.
- B. Hearing Procedure.** At its meeting to consider the development application, the decision-making body shall hear a presentation by the applicant, hear testimony from all members of the public in attendance wishing to speak, hear a presentation of the findings and recommendations of the Community Development Director, and hear responses from the applicant and staff. The decision-making body shall have the right to ask questions of any person presenting testimony at the hearing.
 1. **Burden on Applicant.** The burden shall be on the applicant to demonstrate through competent evidence that the application will comply with all applicable provisions of this *LDC*, *City of Gunnison Master Plan*, and other provisions of the *Gunnison Municipal Code*.
 2. **Withdrawal of Application.** An applicant shall have the right to withdraw an application at any time prior to action on the application by the decision-making body.
- C. Action by Decision-Making Body.** After hearing the evidence and considering the comments of all persons interested in the matter, the decision-making body shall make its decision and findings

and have them entered in its minutes. The decision-making body shall not be required to take final action on an application during the same meeting when testimony from interested persons is taken, but action shall be taken within 21 days of closing the public hearing.

1. Findings. In its findings, the decision-making body shall report the facts, whether the applicant has met the requirements of each applicable review standard, and whether the application is approved, approved with conditions, recommended for approval to another body, tabled pending receipt of additional information, or denied. An application that fails to comply with any applicable review standard shall be denied.

2. Written Action. Whenever a decision-making body grants or denies an application, it shall be specified in writing and the following will be forwarded to the applicant:

a. Code Sections. The section(s) and standards of this *LDC* used in evaluating the application;

b. Findings. Its findings of fact and conclusions regarding these review standards; and

c. Conditions. Conditions, if any, that will be imposed upon the application. Any representation made by the applicant shall be incorporated as a condition of approval.

D. Successive Applications. Unless otherwise stated in this chapter, whenever any application is denied for failure to meet the substantive requirements of this *Land Development Code*, no application for the same or similar development shall be considered for a period of one year after the date of denial, unless:

a. the applicant can demonstrate a change of circumstances or conditions as determined by the Community Development Director; or,

b. a majority of the members of the decision-making body that made the final decision on the application determines that the prior denial was based on a material mistake of fact.

E. Inactive Applications. The decision-making body shall deny any application which remains inactive. An application may be deemed inactive and be denied when the decision-making body determines that the applicant is not making reasonable progress in moving the application towards final approval.

1. Determination of Inactivity. A project shall be determined to be inactive if more than two months have passed since a request for additional information was made by the Community Development Director or the review body, and the request has not been complied with, or more than three months have passed since the last official contact by the applicant to the Community Development Director.

2. Written Notice. The Community Development Director shall provide advance written notice to the applicant stating the time, place, and date when the decision-making body will consider denial of the application due to its inactivity.

§6.9 STAGE 6: ACTIONS FOLLOWING DEVELOPMENT APPROVAL

A. File Required Documents. Following approval of the development application, the applicant shall

submit to the Community Development Director all documents which are required as a condition of approval of the application, including, but not limited to, those documents which are to be recorded in the Office of the Gunnison County Clerk and Recorder, any performance bonds or other financial security measures which must be filed, and the applicable fee for document recordation. Documents must be received no later than 30 days after final approval otherwise, the Community Development Director shall process it as an inactive application pursuant to §6.8 E.2. The documents to be recorded may include, but are not limited to: a Final Plat, an improvements agreement, any other agreements, and any restrictions on the property which may have been agreed to during the review process.

- B. Staff Review.** The Community Development Director shall review the submitted documents and, if necessary, return them to the applicant for any necessary revisions prior to recordation. The Community Development Director may solicit the assistance and recommendations of the City Attorney, the City Engineer or any agency or organization which provided technical assistance during review of the site development application.
- C. Recordation.** The applicant shall make any requested revisions to the documents and file the revised documents with the community development director. The Community Development Director shall circulate the documents to obtain necessary signatures and deliver them to the office of the Gunnison County Clerk and Recorder for recordation.
- D. Verification of Zoning Compliance.** Before the applicant may obtain a building permit for the proposed site development or may change any existing use, the Community Development Director shall verify that the development or change of use complies with the standards of this *LDC*.
- 1. Proposal Follows Site Development Application.** If the applicant is proposing site development following approval of a site development application, then the purpose of the zoning compliance verification shall be to determine that the permit application complies with the approval and any conditions imposed on the approval by the decision-making body, and otherwise complies with the applicable standards of this *LDC*.
 - 2. Proposal Did Not Involve Development Application.** The zoning compliance verification shall be to determine that the site development application complies with the applicable standards of this *LDC*.
 - 3. Scale Drawings.** The Community Development Director may require that the application for zoning compliance verification be accompanied by scale drawing(s) of existing and proposed site features. The drawing(s) shall indicate the shape, dimensions, and locations of lot boundaries, all existing and proposed structures and their intended uses and heights and setbacks; any proposed off-street parking areas, landscape areas and signs; and such other information as may be necessary to determine whether the proposal complies with the applicable standards of this *LDC* and any conditions of approval.
- E. Vested Property Rights.** If the applicant has obtained final approval of a site-specific development for which the applicant has requested the creation of vested property rights, the documents required as a condition of approval, including any documents to be recorded, shall state: “The approval of this site-specific development creates a vested property right pursuant to Article 68 of Title 24, *C.R.S.*”

- 1. Public Notice Following Action.** Within 14 days of final approval of the site-specific development, the Community Development Director shall publish a notice in the designated newspaper of general circulation within the city advising the general public of the approval of the site-specific development and the creation of a vested property right pursuant to Article 68 of Title 24, *C.R.S.*

- 2. Duration.** The final approval of a site-specific development, which creates a vested property right, shall remain in effect for a period of three years from the date of such approval, notwithstanding any shorter period of time contained within this *LDC*.