

4.1 General Provisions

A. Applicability.

1. The provisions of this Article, in conjunction with the Zoning Code, shall apply to any and all development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in these Regulations. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of these Regulations in conjunction with the Zoning Code in Article 3 of this Code and the *Community Design Principles and Development Standards* in Article 2 of this code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in these Regulations in conjunction with the Zoning Code and the *Community Design Principles and Development Standards* in Article 2 of this Code.
2. Except as herein provided, no building, structure, or land shall be used and no building, structure, or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved, or structurally altered except in conformance with the regulations herein specified for the district in which it is located, nor shall a yard, lot, or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.
3. These Regulations, in conjunction with the Zoning Code and the *Community Design Principles and Development Standards*, establish procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the *Nunn Comprehensive Plan* and with adopted regulations, policies, and other guidelines.
4. Town staff is authorized to in writing waive submittal requirements required by this Code if such requirement would not provide meaningful information to the staff or governing body or is redundant or is otherwise unduly burdensome given the nature of the application if such waiver would not be detrimental to the public good, create a conflict with the comprehensive plan or impair the intent and purpose of this Code.

4.2 Intent

- A. Intent. This Article is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town by:
1. Encouraging new subdivision developments to relate to the Town's historic development pattern.
 2. Promoting compact, well-defined, sustainable neighborhoods that enhance the Town's character.

SECTION 4.3 ADMINISTRATION

3. Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles when practical.
4. Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring that streets facilitate safe, efficient and pleasant walking, biking and driving.
5. Providing a variety of lot sizes and housing types in every neighborhood.
6. Protecting sensitive natural and historic areas and the Town's environmental quality.
7. Providing for adequate and convenient open spaces for traffic, utilities, access of fire apparatus, recreation, light and air and for the avoidance of congestion of population.
8. Providing open spaces for adequate storm water management.
9. Providing adequate spaces for educational facilities.
10. Providing protection from geologic hazards and flood prone areas.
11. Ensuring compliance with these standards, the *Nunn Comprehensive Plan*, the *Community Design Principles and Development Standards* (Article 2 of this Code) and the Zoning Code (Article 3 of this Code).
12. Regulating such other matters as the Board of Trustees may deem necessary in order to protect the health, safety, well-being and best interest of the public.

4.3 Administration

- A. **Applicability.** All plans of streets or highways for public use, all plans, plats, plots, and replats of land laid out in subdivision or building lots, and the streets, highways, alleys, or other portions of the same intended use shall be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto shall be submitted for review and subsequent approval, conditional approval or disapproval.
- B. **Recording.** No plat shall be recorded unless the same shall bear thereon the approval of the Board of Trustees. Public dedication of streets, alleys, rights-of-way, highways, parks, open spaces, and utility easements shall be accepted by specific language on the plat.
- C. **Posted Notification.** When the provisions of this Code require that notice be posted on the subject property, the Applicant shall:
 1. Post the notice on weatherproof signs that have been approved by the Town.
 2. Place the signs on the property that is the subject of the property.

3. Ensure that the signs remain in place and legible during the period leading up to the public hearing or, in the case of minor applications, during the period leading up to the Decision-Making Body's final action.
4. The size of the sign shall meet the requirements of the Town (refer to Workbook).
5. Signs shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents and passers-by. At least one (1) sign shall be posted on each street frontage.
6. Applicants shall be responsible for removing the signs after the public hearing or final action. Required timing:
 - a. Notices of Public Hearing – All such notices shall be posted no later than fifteen (15) days before the hearing.
 - b. Upon posting the notification on the property, the Applicant shall certify in writing that required notice was posted according to the requirements of this section. Failure to submit such certification shall postpone Town action on the application. The Applicant shall have until the close of business prior to the date of the postponed or continued hearing to submit the posted notice certification. If the Application fails again to submit the certification, the application shall be considered withdrawn.

D. Published Notice.

1. When the provisions of this Code require that notice be published, the Town shall be responsible for preparing the content of the notice, and shall ensure that notice is published in a newspaper of general circulation. Published notice shall appear in the newspaper no later than thirty (30) days prior to the hearing or action.

E. Notification Period.

1. In order to provide uniformity in notice provisions while minimizing unnecessary delays and ensuring adequate public notice, the public notice and referral provisions of the Nunn Land Use Code are to be sent and/or published as specified not less than thirty (30) days prior to the hearing.
2. The Board of Trustees may determine that the best interests of the Town of Nunn justify reducing the notice and/or referral period to seven (7) days prior to the hearing. If the Board of Trustees determines this reduced period of notice is appropriate, it must also determine that the Constitutional rights to notice of the hearing for the affected parties are given consideration.

4.4 Types of Land Use Applications

- A. **Conceptual applications.** The purpose of conceptual applications is to allow applicants to share their development plans with the Town and to obtain initial feedback before the applicant has invested significant resources into the project. Refer to Section 4.6 for the detailed

SECTION 4.4 TYPES OF LAND USE APPLICATIONS

conceptual application process. Refer to Section 4.7 for specific requirements for each type of conceptual application. Conceptual applications include:

1. Sketch Plan (first step in the Major Subdivision process)
2. Outline Development Plan ((ODP) first step in the Planned Unit Development process)

B. Major Subdivision applications. Major Subdivision applications include detailed applications and public hearings before the Planning Commission and Board of Trustees. Refer to Section 4.8 for the Major Subdivision application process. Refer to Section 4.9 for specific requirements for each type of major application. Major applications include:

1. Major Subdivision process:
 - a. Sketch Plan (refer to Sections 4.6 and 4.7A for detailed requirements)
 - b. Preliminary Plat (refer to Sections 4.8 and 4.9A for detailed requirements)
 - c. Final Plat (refer to Sections 4.8 and 4.9B for detailed requirements)
 - d. Concurrent Preliminary/Final Plat (refer to Sections 4.8 and 4.9C for detailed requirements)
2. Planned Unit Development (PUD) process:
 - a. Outline Development Plan (ODP) (refer to Sections 4.6 and 4.7B for detailed requirements)
 - b. Preliminary Development Plan (refer to Sections 4.8 and 4.9C for detailed requirements)
 - c. Final Development Plan (refer to Sections 4.8 and 4.9C for detailed requirements)
3. Minor Subdivision Plat
4. Site Plan
5. Change of Zone
6. Use by Special Review
7. Appeals
8. Variances
9. Vacation of Right-of-way or Easement

C. Minor applications. Typically, minor applications entail a less extensive process. Refer to Section 4.10 for the detailed minor application process. Refer to Section 4.11 for specific requirements for each type of minor application. Minor applications include:

1. Plot Plan
2. Minor Amendment to an approved subdivision (such as a lot line adjustment)
3. Minor Modification to an approved plan (such as a detail on a site plan)
4. Waiver
5. Land Use Code Amendment
6. Comprehensive Plan Amendment

4.5 Land Use Application Processes Overview
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- A. Conceptual Application.** (*Sketch Plan, Outline Development Plan (ODP)*).
1. Pre-Application Conference.
 2. Application Submittal.
 3. Staff Certifies Application is Complete.
 4. Board of Trustees Review and Recommendation.
- B. Major Application.** (*Preliminary Plat, Final Plat, Concurrent Preliminary/Final Plat, PUD, Minor Subdivision Plat, Site Plan, Change of Zone, Use by Special Review, Appeals, Variances, Vacation of Right-of-way or Easement*)
1. Pre-Application Conference.
 2. Technical Advisory Committee Meeting (optional).
 3. Application Submittal.
 4. Staff Certifies Application Complete.
 5. Applicant Submits Letter of Support and Commitment to Serve (if Staff deems necessary).
 6. Staff Reviews Application and Prepares Comments.
 7. Applicant Responds to Staff and Referral Comments.
 8. Schedule Public Hearing and Complete Public Notification Process.
 9. Applicant Posts Signs on Property and Provides Signed Affidavit (see *Workbook*) to Town.
 10. Staff Refers Application to Interested Parties.
 11. Planning Commission Public Hearing and Recommendation.
 12. Applicant Addresses Planning Commission Conditions of Approval.
 13. Final Staff Review.
 14. Board of Trustees (Board of Adjustment if Appeal/Variance) Public Hearing and Action.
 15. Post Approval Actions.
- C. Minor Application.** (*Plot Plan, Subdivision Amendment, Minor Replat, Minor Modification*)
1. Administrative Review Conference.
 2. Application Submittal.
 3. Staff Reviews Application and Prepares Comments.
 4. Applicant Addresses Staff Comments.
 5. Staff or Planning Commission Action.
 6. Board of Trustees Action (if applicable).
 7. Board of Adjustment Consideration of Appeals.
 8. Post Approval Actions.

4.6 Conceptual Application Process

4. Application Process.

1. Step 1: Pre-Application Conference. A pre-application conference with a representative from the Town is required before the applicant may submit a conceptual application. The purpose of the meeting is to allow the applicant to discuss his/her ideas for developing the property and to give the Town the opportunity to communicate the Town's vision. Topics to be discussed will include:
 - a. Applicant's goals for the property.
 - b. Town vision and expectations.
 - c. *Community Design Principles and Development Standards* (Article 2 of this Code).
 - d. The character and quality of development the Town is seeking.
 - e. Town regulations and standards.
 - f. The application and review process.
 - g. Submittal requirements.
 - h. Approximate timeframe for the review process.
 - i. Applicants should bring the following items to the meeting:
 - i. Base Map – which shows the site features (such as topography, ditches, drainageways, wildlife habitat, oil and gas facilities, trees and view corridors).
 - ii. Images (such as photographs, sketches and/or plans) which illustrate the project intention. For example, an applicant might bring pictures of:
 - (1) Important architectural elements;
 - (2) Proposed architectural styles;
 - (3) Ideas for landscaping features such as a xeriscape garden entryway;
 - (4) Streetscape components which contribute to the project's character;
 - (5) A special tree on the property;
 - (6) Examples of signs that promote the development's identity; and
 - (7) Anything else that illustrates what the developer is trying to create.

2. Step 2: Application Submittal. The applicant shall submit one (1) copy of the complete conceptual application package to the Town Clerk and shall request that the application be reviewed by the Board of Trustees (BOT). The conceptual application package shall include the following items:
- a. *Land Use Application Form.*
 - b. *Technical Criteria Form (see Workbook).*
 - c. *Application Fee and Fee Agreement (see Workbook).* A non-refundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Clerk and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the application fee according to the fee agreement. The Town shall provide applicants with a copy of the most current fee schedule and fee agreement form.
 - d. *Title Commitment.* The title commitment must be current and the date must be no more than thirty (30) days from the date of conceptual application submittal.
 - e. *Context/Vicinity Map.* The context/vicinity map shall show the proposed development in relation to the surrounding area (one [1] mile radius around the property). The map shall be twenty-four (24) inches high by thirty-six (36) inches wide and provide the following information:
 - i. Title of project.
 - ii. North arrow, scale (not greater than 1" = 1000') and date of preparation.
 - iii. Boundary of proposed project.
 - iv. Existing (for developed land) or proposed (for vacant/agricultural land) land uses for the properties shown on the map (i.e. residential, commercial, industrial, park, etc.) - label land use and whether it is existing or proposed.
 - v. Major streets (show and label street names).
 - vi. Existing public water and sewer lines and proposed connections.
 - vii. Open space/trail networks per the *Nunn Comprehensive Plan*.
 - viii. Major ditches, rivers and bodies of water.
 - ix. Adjacent properties identified by subdivision name or zoning district.
 - f. *Conceptual Landscape Plan.* Refer to the *Community Design Principles and Development Standards* (Section 2.16 of this Code) for the conceptual landscape plan requirements.
 - g. *Conceptual Open Space and Ecological Characterization Plan.* Refer to Section 2.13 of the *Community Design Principles and Development Standards* (Article 2 of this Code) for the conceptual open space plan and ecological characterization requirements. This plan may be combined with the landscape plan.

SECTION 4.6 CONCEPTUAL APPLICATION PROCESS

- h. *General Development Information.* Provide a written description of the existing conditions on the site and the proposed development. Include the following items in the description:

 - i. Design rationale - discuss how the development is connected to/integrated with surrounding area, how it responds to site features/constraints and how it is consistent with the *Community Design Principles and Development Standards* (Article 2 of this Code). If it is not consistent with the *Community Design Principles and Development Standards* section, explain how the intent of the criteria in the section is met.
 - ii. Proposed number of residential lots or dwelling units, typical lot width and depth, price ranges of lots and dwelling units (not needed if information is shown on the ODP or Sketch Plan).
 - iii. General description of plan for drainage and storm water management.
 - iv. Water supply information including: the number of water taps needed; the amount of raw water that will be provided to the Town (consistent with the North Weld County Water District [NWCWD] policy, if applicable) and the source of the water (if part of annexation, source of raw water).
 - v. Statement indicating whether or not any commercial mineral deposits are located on the site.
 - vi. Description of any floodplain hazards on the site (only if additional information is needed than what is shown on the Sketch Plan map).
 - vii. Show how the proposed development complies with the *Nunn Comprehensive Plan*.
- i. *Soils Report and Map.* The report and map shall be based on USDA Soils Conservation Service information and discuss the existing conditions and any potential constraints/hazards. The report shall also address groundwater issues.
- j. *Geologic Report.* This report is required only for areas that have the potential for expansive soils as deemed necessary by the Town.

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- k. *Electronic Copy of Application Package.* Provide an Adobe pdf file of the complete application package.
 - l. Refer to Section 4.7 for each type of conceptual application's detailed submittal requirements.
3. Step 3: Staff Certifies Application is Complete. Within a reasonable period of time, Staff shall either certify the conceptual application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the *Sketch Plan and/or ODP Technical Criteria* form) to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.
4. Step 4: Board of Trustees (BOT) Review and Recommendation. At the next available meeting, the BOT shall review the conceptual application and provide input regarding how well the project addresses its review criteria.

4.7 Detailed Submittal Requirements and Review Criteria for Conceptual Applications

A. Sketch Plan (Phase 1 of Major Subdivision process).

- 1. **Intent.** The sketch plan process is *collaborative* from the onset. The purpose of the sketch plan is two-fold. First, it provides the Town the opportunity to describe the community's vision to the applicant. Second, it gives the applicant an opportunity to discuss his/her development plans, explain how the plans will further the community's vision and obtain input and direction from the Board of Trustees early in the process. The ultimate goal of this process is to help the applicant develop a plan that fosters the community's vision before significant engineering takes place.
- 2. **Detailed Sketch Plan Submittal Requirements.** The Sketch Plan shall be twenty-four (24) inches high by thirty-six (36) inches wide and may be a free hand drawing in a legible medium that clearly shows:
 - a. Title of project.
 - b. North arrow, scale (not greater than 1" = 200') and date of preparation.
 - c. Vicinity map.
 - d. Legal description.
 - e. Acreage of property.
 - f. USGS topographic contours.
 - g. Location and approximate acreage of proposed land uses.
 - h. Proposed layout of lots, streets, parks and open space.
 - i. Existing easements and rights-of-way on or adjacent to the property.
 - j. Existing streets on or adjacent to the property (show and label street name).
 - k. Note indicating how the open space requirement will be met (per Section 2.13).
 - l. Proposed collector and arterial streets.

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- m. General locations of existing utilities on or adjacent to the property.
 - n. Graphic and/or verbal explanation of how the property will be served with utilities.
 - o. Location of any proposed sewer lift stations.
 - p. Trails - show how the development will tie into the regional trails network outlined in the *Nunn Comprehensive Plan*.
 - q. Floodplain boundary with a note regarding the source of information (if a floodplain does not exist on the property, please state this on the plan).
 - r. Geologic hazard areas.
 - s. Existing and proposed zoning on and around the property.
 - t. Land use table - the table shall include: land uses, approximate acreage of each land use, percentage of each land use proposed, and density or floor area ratio.
 - u. All existing and proposed oil and gas facilities and the required setback, including existing flow lines and proposed relocations of flow lines.
 - v. Archaeological or historic sites or structures that merit preservation.
3. **Sketch Plan Review Criteria.** The Town shall use the following criteria to evaluate the applicant's Sketch Plan application:
- a. The land use mix within the project conforms to Nunn's *Zoning District Map* and *Future Land Use Map* and furthers the goals and policies of the *Nunn Comprehensive Plan* including:
 - i. The proposal maintains and enhances Nunn's small town appeal;
 - ii. Proposed residential development provides a variety of housing choices;
 - iii. Proposed commercial development expands and diversifies Nunn's economic base;
 - iv. Parks and open space are incorporated into the site design;
 - v. The proposed project respects the environment and protects important natural features; and
 - vi. The development helps cultivate a sustainable community by providing expanded cultural, historical, educational and employment opportunities.
 - b. The Sketch Plan represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code including the *Community Design and Development Standards* and the *Nunn Comprehensive Plan*.
 - c. The utility and transportation design is adequate, given existing and planned capacities of those systems.

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- d. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
 - e. There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types within Town, according to Town's goals.
4. **Expiration of Sketch Plan.** Approval and conditional approval of a sketch plan shall expire two (2) years from the date of Board of Trustees approval. The Board of Trustees shall determine whether to grant an extension of time on the basis of past diligence and future plans of the subdivision application, as well as the Board's original recommendation. Any extension of time granted pursuant to this Section shall be conditioned upon the proposed subdivision's compliance with all subdivision requirements in effect on the date that such extension is granted. If a preliminary plat is not submitted within said time limit or an extension has not been granted, a sketch plan must again be submitted before action may be taken on a preliminary plat. If the sketch plan is denied, the request or one that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees.

B. Outline Development Plan (ODP) (Phase 1 of Planned Unit Development process).

1. **Intent.** The intent of the Planned Unit Development (PUD) Overlay District is to permit and encourage innovative design and to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The PUD Overlay District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.
2. **Detailed ODP Submittal Requirements.** The ODP must be submitted in conjunction with the sketch plan application. In addition, the following must be submitted:
 - a. PUD application fee.
 - b. Written PUD description as part of the general development information which includes:
 - i. Identify the underlying zoning districts for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. If any use by special reviews are requested, explain how the use by special review criteria (refer to Section 4.9 G(3) of this Article) will be addressed.

SECTION 4.7 DETAILED SUBMITTAL REQUIREMENTS AND REVIEW CRITERIA FOR CONCEPTUAL APPLICATIONS

- ii. List all zoning and *Community Design Principles and Development Standards* exceptions proposed for the PUD and how the proposed modification will substantially conform to the *Community Design Principles and Development Standards* (per Article 2, Section 2.4).
 - iii. Identify and explain the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or if the width of the local street right-of-way is decreased by eliminating on-street parking, then there will be designated parking areas within five hundred (500) feet of all residences, etc.). All proposed benefits must offset the proposed modifications.
 - iv. Explain how the proposed PUD will be compatible with adjacent neighborhoods that now exist or are proposed in the future. Describe any proposed buffering techniques that serve to achieve such compatibility.
 - v. Provide any additional relevant information that the Town may deem necessary.
 - c. The ODP shall be twenty-four (24) inches high by thirty-six (36) inches wide and may be a free hand drawing in a legible medium that clearly shows:
 - i. Title of project.
 - ii. North arrow, scale (not greater than 1" = 200') and date of preparation.
 - iii. Acreage of property.
 - iv. Location and approximate acreage of proposed land uses.
 - v. Proposed layout of lots, streets, parks and open space.
 - vi. Trails - show how the development will tie into the regional trails network.
 - vii. Floodplain boundary with a note regarding the source of information (if a floodplain does not exist on the property, please state this on the plan).
 - viii. Existing and proposed zoning on and around the property.
 - ix. Table showing the proposed underlying zoning districts, approximate number of lots, tracts and units, acreage and proposed modifications to zoning and/or *Community Design Principles and Development Standards*.
- 3. **Permitted Uses Details.** Refer to Section 4.9D for specific requirements regarding permitted uses and restrictions within PUDs.

4. **ODP Review Criteria.** The following review criteria will be used by the Board of Trustees to evaluate all ODP applications:
- a. The proposed benefits offset the proposed exceptions to the zoning, subdivision standards, *Community Design Principles and Development Standards* and that such exceptions are in the best interest of the public health, safety and welfare.
 - b. The proposed PUD conforms to the PUD restrictions, and the proposed zoning is compatible with the surrounding land uses.
 - c. The PUD proposes creative and innovative design and high quality development, thereby protecting and promoting public safety, convenience, health and general welfare.
 - d. The uses and densities in the proposed PUD are compatible, and will be effectively integrated with adjacent neighborhoods that now exist or are proposed in the future.
 - e. The proposed PUD meets the intent and is in general conformance with the *Nunn Comprehensive Plan, Community Design Principles and Development Standards* and zoning standards.
 - f. One (1) or more of the criteria for amendment of the official zoning map has been satisfied.
5. **Expiration of ODP.** Approval and conditional approval of an ODP shall expire two (2) years from the date of Board of Trustees approval. The Board of Trustees shall determine whether to grant an extension of time on the basis of past diligence and future plans of the subdivision application, as well as the Board of Trustees's original recommendation. Any extension of time granted pursuant to this Section shall be conditioned upon the proposed subdivision's compliance with all subdivision requirements in effect on the date that such extension is granted. If a preliminary development plan is not submitted within said time limit or an extension has not been granted, an ODP must again be submitted before action may be taken on a preliminary development plan. If the ODP is denied, the request or one that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees.

4.8 Major Application Process

A. Application Process.

1. **Step 1: Pre-Application Conference.** If applicable, a pre-application conference with a representative from the Town is required before the applicant may submit a minor subdivision plat application. Topics to be discussed will include:

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- a. Town regulations and standards;
 - b. The application and review process;
 - c. Submittal requirements; and
 - d. Approximate timeframe for the review process.
2. Step 2: Technical Advisory Committee Meeting. If deemed necessary, Staff shall schedule a meeting with appropriate referral agencies (i.e., oil and gas companies, Highland RE-9 School District, Weld County Department of Public Health and Environment, Weld County Public Works Department, Nunn Post Office, Nunn Police Department, Nunn Fire Protection District, Atmos Gas Company, Xcel, etc.), appropriate Town Staff (i.e., Town Clerk, Town Engineer, Public Works Supervisor, etc.) and the applicant to discuss the project.
3. Step 3: Application Submittal. The applicant shall submit one (1) copy of the complete application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Board of Trustees. The application shall include:
- a. *Land Use Application Form (from Workbook).*
 - b. *Applicable Technical Criteria Form (from Workbook).*
 - c. *Application Fee and Fee Agreement.* A nonrefundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Clerk and any other expert whom the Town may wish to employ; and recording fees. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the deposit. The Town shall provide the applicant with a copy of the most current fee schedule and fee agreement form.
 - d. *Title Commitment.* The title commitment must be current and dated no more than thirty (30) days from the date of application submittal.
 - e. *Surrounding and Interested Property Ownership Report.* Provide the Town Clerk with a current list (not more than thirty (30) days old) of the names and addresses of the surrounding property owners (within five hundred (500') feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
 - f. *Mineral, Oil and Gas Rights Documentation.* Evidence that the applicant has contacted all mineral rights owners and all lessees of mineral, oil and gas rights associated with the site by certified mail and is working towards resolution. Included in the evidence must be the name of the current contact person, his or her phone number and mailing address and a description of the issues. The

mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the sketch plan application submittal.

- g. *Legal Notice Form.* The legal notice form will be provided by the Town and filled out by the applicant and returned to the Town with an electronic copy of the legal description in MSWord™ Format.
- h. *General Development Information.* Provide a written description addressing how the proposed development conforms to this Land Use Code (including the *Community Design Principles and Development Standards*, the *Zoning Code* and the *Subdivision Regulations*), and the *Nunn Comprehensive Plan*.
- i. *Context/Vicinity Map.* The context/vicinity map shall show the proposed development in relation to the surrounding area (one [1] mile radius around the property). The map shall be eleven (11) inches high by seventeen (17) inches wide and provide the following information:
 - i. Title of project.
 - ii. North arrow, scale (not greater than 1" = 1000') and date of preparation.
 - iii. Boundary of proposed project.
 - iv. Existing (for developed land) or proposed (for vacant/agricultural land) land uses for the properties shown on the map (i.e. residential, commercial, industrial, park, etc.) - label land use and whether it is existing or proposed.
 - v. Major streets (show and label street names).
 - vi. Existing public water and sewer lines and proposed connections.
 - vii. Regional open space/trail networks per the *Nunn Comprehensive Plan*.
 - viii. Major ditches, rivers and bodies of water.
 - ix. Adjacent properties identified by subdivision name or zoning district.
- j. *Applicable Plat.* Refer to Section 4.9 of this Code for each major application type's plat requirements.
- k. *Complete Engineering Plans and Specifications, if applicable.* Refer to Section 4.9 for Engineering Plan and Specification requirements.
- l. *Landscape Plan, if applicable.* Refer to Section 2.16 of this Code for the landscape plan requirements.
- m. *Open Space and Ecological Characterization Plan, if applicable.* Refer to Section 2.13 of this Code for the open space and ecological characterization plan requirements.
- n. *Signed Surface Use Agreement, if applicable.* The signed surface use agreement describing all oil and gas facilities on the property, their present use, changes which will be made to such facilities, relocation of any facilities, screening, noise

SECTION 4.9 DETAILED SUBMITTAL REQUIREMENTS AND REVIEW CRITERIA FOR MAJOR APPLICATIONS

10. affidavit certifying they posted the property. Refer to the *Workbook* for details on the sign and for a sample affidavit.
11. Step 10: Staff Refers Application to Interested Parties. Not less than thirty (30) days before the date scheduled for public hearing or Staff decision, Staff shall send information about the application by regular mail to: referral agencies, surrounding property owners within five hundred (500) feet, mineral interest owners of record, mineral and oil and gas lessees for the property, ditch companies and other interested parties. The referral information shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name.
11. Step 11: Planning Commission Public Meeting and Recommendation. The Planning Commission shall hold a public meeting to review the application based on the minor subdivision plat review criteria. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve or deny the application.
12. Step 12: Applicant Addresses Planning Commission Conditions of Approval. The applicant shall revise the application based on the Planning Commission's conditions of approval and submit it to the Town.
13. Step 13: Final Staff Review. Staff will complete a final review of the resubmitted materials and then prepare a report to the Board of Trustees explaining how the application is or is not consistent with the review criteria.
14. Step 14: Board of Trustees Public Hearing and Action. The finalized application shall be presented to the Board of Trustees for its review and action at a public hearing. The Town Board of Trustees shall review the application based on its review criteria. If approved, the Board of Trustees shall adopt the plat by ordinance and the Town Clerk shall request two (2) original Mylars of the final map ready for the Mayor and Town Clerk to sign and then record. If applicable, the Town will provide the finalized developer's agreement for the applicant to sign.
15. Step 15: Post Approval Actions. The applicant may be asked to submit additional information after approval. Detailed requirements for each type of major application can be found in Section 4.9 of this Code.

4.9 Detailed Submittal Requirements and Review Criteria for Major Applications

A. Preliminary Plat (Phase 2 of Major Subdivision process).

1. **Intent.** The purpose of the preliminary plat is to provide the Town with an overall master plan for the proposed subdivision.

2. Detailed Preliminary Plat Submittal Requirements.

- a. **Preliminary Plat.** The preliminary plat shall be twenty-four (24) inches high by thirty-six (36) inches wide and provide the following information:
- i. Title of project.
 - ii. North arrow, scale (not greater than 1" = 100') and date of preparation.
 - iii. Vicinity map.
 - iv. Names and addresses of owners, applicant, designers, engineers and surveyors.
 - v. Legal description.
 - vi. Total acreage of property.
 - vii. Existing contours at two (2) foot intervals (contours shall be based on USGS datum).
 - viii. Name and location of abutting subdivisions or owners of abutting property (if land is not platted).
 - ix. Lots, blocks, and street layout with approximate dimensions and square footage for each lot.
 - x. Consecutive numbering of all lots and blocks.
 - xi. Existing and proposed rights-of-way and easements on and adjacent to the property.
 - xii. Existing and proposed street names for all streets on and adjacent to the property.
 - xiii. Existing and proposed zoning on and adjacent to property.
 - xiv. Location and size of existing and proposed sewer lines, water lines and fire hydrants. (Note: Applicant must consult with the appropriate utility service providers regarding the design of all utilities through the subdivision).
 - xv. Existing and proposed curb and gutter.
 - xvi. Location by field survey or aerial photography of existing and proposed water courses and bodies of water such as irrigation ditches and lakes. Water courses shall include direction of flow.
 - xvii. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plan).
 - xviii. General location of existing surface improvements such as buildings, fences or other structures which will remain on the property as part of the subdivision.
 - xix. Location and acreage of sites, if any, to be dedicated for parks, playgrounds, schools or other public uses.
 - xx. Location, function, ownership and manner of maintenance of any private open space.
 - xxi. Land use table - the table shall include: land uses, approximate acreage of each land use, and percentage of each land use (including how the open space requirement will be met).
 - xxii. Total number of lots.
 - xxiii. Number of each type of dwelling unit proposed.

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- h. Geologic Report.** If a geologic report was prepared at the time of ODP must be provided to some of the review agencies (see *Letters of Support and Commitment to Serve Table* in the *Workbook*). It must be prepared by either a registered professional engineer or professional geologist and the professional must have experience in mine subsidence. The report shall address:

 - i. Site conditions;
 - ii. Geologic conditions;
 - iii. Engineering and geologic considerations;
 - iv. Limitations and any necessary additional investigations; and
 - v. Subsurface conditions on the tract: location and results of tests made to ascertain subsurface soil, rock and groundwater conditions.

- i. Colorado Historical Society Records Search.** At the discretion of the Town Staff or Board of Trustees, an applicant may be required to provide the Town with a Colorado Historical Society records listing historically or archaeologically significant findings on the property being subdivided. If a listing shows a significant finding, a site-specific historic survey is required. The survey shall provide the following information:

 - i. Site identification:

 - (1) State site number;
 - (2) Site address;
 - (3) Site location/access;
 - (4) Type and description of finding (what is historic); and
 - (5) Owner's name and address.
 - ii. Eligibility assessment for historic designation.
 - iii. Statement of significance.
 - iv. Management and administrative data:

 - (1) References;
 - (2) Photographs of the site;
 - (3) Maps of the site;
 - (4) Name, address, phone number and qualifications of person completing survey; and
 - (5) Date of completion of survey.
 - v. If, in coordination with the applicant, the Board of Trustees decides to protect an historic resource, a protection plan must be devised.

3. **Preliminary Plat Review Criteria.** The Town shall use the following criteria to evaluate the applicant's request:
 - a. The preliminary plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the *Nunn Comprehensive Plan*.
 - b. The application is consistent with the approved sketch plan and incorporates the Board of Trustees' recommendations and conditions of approval.
 - c. The land use mix within the project conforms to the *Zoning Districts Map* and *Future Land Use Map* and furthers the goals and policies of the *Nunn Comprehensive Plan* including:
 - i. The proposed development maintains and enhances Nunn's small town appeal and protects the health, safety and well-being of residents;
 - ii. Proposed residential development provides a variety of housing choices;
 - iii. Proposed commercial development expand and diversify Nunn's economic base;
 - iv. Parks and open space are incorporated into the site design;
 - v. The proposed project respects the environment and protects important natural features; and
 - vi. The development helps cultivate a sustainable community by providing expanded cultural, historical, educational and employment opportunities.
4. **Expiration of Preliminary Plat.** Approval and conditional approval of a preliminary plat shall be effective for one (1) year. The Board of Trustees shall determine whether to grant an extension of time on the basis of past diligence and future plans of the subdivision application, as well as the Planning Commission's original recommendation. Any extension of time granted pursuant to this Section shall be conditioned upon the proposed subdivision's compliance with all subdivision requirements in effect on the date that such extension is granted. If the plan is denied, the request or one that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees. If a preliminary plat is not submitted within said time limit or an extension has not been granted, a preliminary plat must again be submitted before action may be taken on the final plat.

B. Final Plat (Phase 3 of Major Subdivision process).

1. **Intent.** The purpose of the final plat is to complete the subdivision of land consistent with the technical standards.
2. **Detailed Final Plat Submittal Requirements.**
 - a. **Final Plat.** The final plat shall be twenty-four (24) inches high by thirty-six (36) inches wide and shall provide the following information:
 - i. Title of project.
 - ii. North arrow, scale (not greater than 1"=100') and date of preparation.
 - iii. Vicinity map.
 - iv. Legal description.
 - v. Basis for establishing bearing.
 - vi. Names and addresses of owners, applicant, designers, engineers and surveyors.
 - vii. Total acreage of subdivision.
 - viii. Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements.
 - ix. Lot and block numbers, numbered in consecutive order, and square footage of each lot or tract.
 - x. Excepted parcels from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
 - xi. Existing and proposed rights-of-way in and adjacent to subject property (labeled and dimensioned).
 - xii. Existing and proposed street names for all streets on and adjacent to the property.
 - xiii. Existing and proposed easements and their type in and adjacent to subject property (labeled and dimensioned).
 - xiv. Location and description of monuments.
 - xv. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat).
 - xvi. All existing and proposed oil and gas facilities and the required setback, including existing flow lines and proposed relocations of flow lines, name of owner and facility.
 - xvii. Archaeological or historic sites or structures that merit preservation.
 - xviii. Signature block for registered land surveyor certifying to accuracy of boundary survey and plat (see *Workbook* for sample).
 - xix. Signature block for certification of approval by the Board of Trustees with a signature for the Mayor and Town Clerk (see *Workbook* for sample).
 - xx. Signature blocks for utility providers (see *Workbook* for sample).
 - xxi. Certification of ownership and dedication of streets, rights-of-way, easements and public sites (see *Workbook* for sample).

b. Complete Engineering Plans and Specifications.

- i. Construction Plans and Profiles. The Plans and Profiles shall be prepared by a registered professional engineer licensed in the State of Colorado, shall be twenty-four (24) inches high by thirty-six (36) inches wide and provide the following information:
 - (1) The horizontal to vertical scales shall be chosen to best depict the aspects of the design.
 - (2) Minimum horizontal scale: 1"=100'.
 - (3) Minimum vertical scale: 1"=10'.
 - (4) The typical road geometric and structural cross-section is to be shown on each plan sheet.
 - (5) The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginning of curves and end of curves, intersections, structures, angles, curb lines, cross pans, traffic control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii, and all other features to enable construction in accordance with approved standards and standard engineering practice. Construction plans shall also include water, sewer, sanitary sewer and any other utilities such as irrigation ditches. (Note: The developer/owner is responsible for coordinating with the appropriate dry utility companies [i.e. gas, electric, telephone, cable]).
 - (6) The profiles shall include ground lines, grade lines of curb and gutter or centerline of street elevation at point of intersection of vertical curves, intersections and other critical points, structures, and all other features required to enable construction in accordance with approved standards.
 - (7) Signature blocks for all utility providers unless otherwise provided in agreement form.
- ii. Structure Details. Sufficient data shall be given to construction of major structures and road appurtenances such as bridges, culverts, gutters, drives, walks, cross pans, etc; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc.
- iii. Sewage Collection and Water Supply Distribution Plans, Profiles and Specifications. The plans, profiles and specifications shall be prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
- iv. Final Drainage Plans and Reports. Based upon the approved preliminary drainage plan, a final report is to be submitted in accordance with

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applicable storm drainage design criteria as determined at the initial pre-application conference. The plan and report must provide:

- (1) Cross-sections of each water carrier showing high water elevations for one hundred (100) year run-off and adjacent features that may be affected thereby.
 - (2) Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Weld County, ditch companies).
 - (3) Supporting calculations for run-offs, times of concentration, flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
 - (4) Erosion control plans, when required, to be submitted as a result of preliminary plan review.
- c. **Final Grading Plan.** The final grading plan shall be twenty-four (24) inches high by thirty-six (36) inches wide and illustrate existing and proposed contours and lot and block grading details (per FHA requirements if FHA insured).
- d. **Final Master Utility Plan.** This plan shall show:
- i. Location and size of existing utilities within and adjacent to the subdivision, including water, sewer, electricity, gas and telephone;
 - ii. Proposed utility system including water mains, sewers, other utility mains (electricity, gas, telephone) and any other services that shall supply the subdivision. All utilities must be constructed within approved easements;
 - iii. Utility clearance record showing approval by utilities companies that service can be supplied (form supplied by Town).
- e. **Soils Reports.** The soils reports shall detail special foundation requirements (shall be submitted after overlot grading is complete) and pavement design (may be submitted prior to building permit).
- f. **Final Street Lighting Plan.** A final street lighting plan shall be prepared in conjunction with Xcel Energy and the Town. The plan must specify the number, kind and approximate location of street lights.
- g. **Special Documents (as Needed):**
- i. Special improvement district documents.
 - ii. Maintenance bonds.
 - iii. Special agreements (as may be required by the Town).
 - iv. Work in Right-of-Way Permit (from Town).
 - v. Floodplain Use Permit (from Town).

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- vi. State Highway Utility Permit (from Colorado Department of Transportation).
 - vii. State Highway Access Permit (from Colorado Department of Transportation).
 - viii. Construction Dewatering Permit (from Colorado Department of Public Health and Environment).
 - ix. 404 Permit (from Army Corps of Engineers).
 - x. Air Pollution Emission Notice (APEN) (from Colorado Department of Public Health and Environment).
 - xi. Work in Ditch Right-of-Way Permit (from individual ditch companies).
 - xii. Certification from U.S. Fish and Wildlife Service that there is no habitat for threatened/endangered species or that there is an approved habitat mitigation plan in place.
 - xiii. Draft Developer's Agreement (required) - This agreement assures construction of the required improvements.
 - xiv. General Warranty Deed - This deed conveys to the Town all public lands other than streets shown on the plat or, in lieu of a deed, a check in an amount to be determined by the Town.
 - xv. Improvements Guarantee - Cash, certified check, or a letter of credit from a bank in Colorado or other acceptable collateral in the amount stipulated to in the Developers Agreement or other agreements or contracts, posted in favor of the Town in an amount sufficient to assure construction of public improvements for either part or all of the plat, as the Board of Trustees shall determine.
 - xvi. Approved Adjudication of Water Rights and a Plan of Augmentation (if applicable).
 - xvii. Draft Protective Covenants, Homeowners Association (HOA) Documents, Articles of Incorporation for HOA, and Architectural Design Guidelines finalized and in a form for recording. If there are open space areas to remain in private ownership within the subdivision, the HOA documents must have in place a mechanism which will assure maintenance will be funded in perpetuity.
 - xviii. FEMA approved applications (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).
 - xix. Documentation showing who will own and maintain the open space (refer to Section 2.13.C.6 for details).
 - xx. Documentation for dedication of public sites for open space or other civic purposes (refer to Section 2.14).
- h. "Clean" Final Plat with Addressing Plan.**
- i. Title of project.
 - ii. North arrow, scale (not greater than 1"=100') and date of preparation.
 - iii. Vicinity map.
 - iv. Lot and block numbers, numbered in consecutive order.
 - v. Rights-of-way and street names.
 - vi. Property boundary.

- vii. Street names.
- viii. Lot addresses.

3. **Final Plat Review Criteria.** The Town shall use the following criteria to evaluate the applicant's request:
 - a. The final plat conforms with the approved preliminary plat and incorporates recommended changes, modifications and conditions attached to the approval of the preliminary plat unless otherwise approved by the Board of Trustees.
 - b. The development will substantially comply with the *Community Design Principles and Development Standards* as set forth in Article 2 of this Code.
 - c. All applicable technical standards have been met.
4. **Post Approval Action.** The applicant shall submit the following documentation to the Town Clerk:
 - a. *List of Contractors.* List of all contractors that will be performing the improvements.
 - b. *Proof of Insurance.* Proof of workman's comprehensive insurance and liability insurance for each contractor.
 - c. *Open Space.* Areas designated as open space will be set forth as open space on the plat. If the open space is to be dedicated to the Town, the Town may require additional restrictions including dedication by deed and deed restrictions at the town's option. If open space is to be owned by a private entity, the town may require additional restrictions on the plat.
 - d. *Other Certificates, Affidavits, Enforcements or Deductions.* As required by the Planning Commission or Board of Trustees.
5. **Expiration of Final Plat.** If the final plat is not recorded within six (6) months from the date of the Board of Trustees' approval, such approval shall be null and void. This time period may be extended by the Board of Trustees for up to one additional three (3) month period for good cause shown. The subdivider must petition in writing for an extension prior to the expiration of the original six (6) months. No extension will be granted if it is determined that it will be detrimental to the Board of Trustees. If any of the fees charged as a condition of subdivision approval, have increased, the Town may require that the bond estimate be recalculated and that the subdivider pay any applicable fee increases as a condition of granting an extension. If the plan is denied, the request or one that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees. If a final plat is not submitted within said time limit or an extension has not been granted, a preliminary plat must again be submitted before any further action may be taken.

C. Concurrent Preliminary/Final Plat.

1. **Intent.** The purpose of the concurrent preliminary/final plat is to provide the Town with an overall master plan for the proposed development and to complete the subdivision of land consistent with Town's technical standards. The final plat may be reviewed concurrently with the preliminary map provided that the concurrent applications are agreed to by the applicant and the Board of Trustees during the pre-application review period. In no case shall a final plat be approved before a preliminary plat map is processed and approved.
2. **Detailed Concurrent Preliminary/Final Plat Submittal Requirements.**
 - a. **Preliminary Plat.** Refer to Section 4.9 A(2) for plat submittal requirements.
 - b. **Final Plat.** Refer to Section 4.9 B(2) for plat submittal requirements.
3. **Concurrent Preliminary/Final Plat Review Criteria.** The Town shall use the following criteria to evaluate the applicant's concurrent preliminary/final plat application:
 - a. The land use mix within the project conforms to the *Nunn Zoning Map* and *Future Land Use Map* and furthers the goals and policies of the *Nunn Comprehensive Plan* including:
 - i. The proposed development maintains and enhances Nunn's small town appeal and protects the health, safety and well-being of residents;
 - ii. Proposed residential development provides a variety of housing choices;
 - iii. Proposed commercial development expand and diversify Nunn's economic base;
 - iv. Parks and open space are incorporated into the site design;
 - v. The proposed project respects the environment and protects important natural features; and
 - vi. The development helps cultivate a sustainable community by providing expanded cultural, historical, educational and employment opportunities.
 - b. The application is consistent with the approved sketch plan and incorporates the Planning Commission's recommendations and conditions of approval.
 - c. The preliminary/final plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code, the *Nunn Comprehensive Plan* and, the *Community Design Principles and Development Standards* (Article 2 of this Code).

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- d. The utility and transportation design is adequate, given existing and planned capacities of those systems.
 - e. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
 - f. There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types within Nunn, according to Nunn's goals.
4. **Post Approval Actions.** The applicant shall submit the following documentation to the Town Clerk:

List of Contractors. List of all contractors that will be performing the improvements.

Proof of Insurance. Proof of workman's comprehensive insurance and liability insurance for each contractor.

Open Space Deed Restriction. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space in perpetuity.

Other Certificates, Affidavits, Enforcements or Deductions. As required by the Planning Commission or Board of Trustees.

5. **Expiration of Concurrent Preliminary/Final Plat.** If the concurrent preliminary/final plat is not recorded within six (6) months from the date of the Board of Trustees' approval, such approval shall be null and void. This time period may be extended by the Board of Trustees for up to one additional three (3) month period for good cause shown. The subdivider must petition in writing for an extension prior to the expiration of the original six (6) months. No extension will be granted if it is determined that it will be detrimental to the Board of Trustees. If any of the fees charged as a condition of subdivision approval, have increased, the Town may require that the bond estimate be recalculated and that the subdivider pay any applicable fee increases as a condition of granting an extension. If the plan is denied, the request or one that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees. If a final plat is not submitted within said time limit or an extension has not been granted, a preliminary plat must again be submitted before any further action may be taken.

D. Preliminary Development Plan (Phase 2 of Planned Unit Development Process)

1. **Intent.** The intent of a preliminary development plan is to outline the proposed standards associated with a specific Planned Unit Development Overlay District.
2. **Detailed Preliminary Development Plan Submittal Requirements.** Applicants must submit the following:
 - a. PUD application fee.
 - b. *Written PUD description.* Include a written PUD description as part of the general development information which includes:
 - i. List all subdivision regulation and community design and development standards exceptions proposed for the PUD and how the PUD complies with the *Community Design Principles and Development Standards* set forth in Article 2 of this Code.
 - ii. Identify the underlying zoning districts for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. If any use by special reviews are requested, explain how the use by special review review criteria (refer to Section 4.9 (G)4 of this Article) will be addressed.
 - iii. Identify and explain the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or if the width of the local street right-of-way is decreased by eliminating on-street parking, then there will be designated parking areas within five hundred (500) feet of all residences, etc.). All proposed benefits must offset the proposed modifications.
 - iv. Explain how the proposed PUD will be compatible with adjacent neighborhoods that now exist or are proposed in the future. Describe any proposed buffering techniques that serve to achieve such compatibility.
 - v. Provide any additional relevant information that the Town may deem necessary.
 - c. **Preliminary Development Plan Map.** Prepare the preliminary development plan map using the preliminary plat as the base. Include on the base a clear graphic and/or written representation of:
 - i. Show all proposed land uses with underlying zoning district(s).
 - ii. Provide a table that identifies underlying zoning districts, proposed modifications to the zoning requirement(s) and justification for the modifying of any zoning requirements.

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- iii. Provide any additional relevant information that the Town may deem necessary.
 - iv. Proposed phasing for the development.
 - 3. **Preliminary Development Plan Review Criteria.** In addition to all of the review criteria for an ODP, the following review criteria will be used by the Town Staff and Board of Trustees to evaluate all PUD applications at the time of preliminary PUD plan/preliminary plat:
 - a. The preliminary development plan is substantially consistent with the sketch development plan as approved by the Board of Trustees.
 - b. All ODP conditions of approval have been adequately addressed on the preliminary development plan.
 - 4. **Expiration of Preliminary Development Plan.** Approval and conditional approval of a preliminary development plan shall be effective for one (1) year. The Board of Trustees shall determine whether to grant an extension of time on the basis of past diligence and future plans of the subdivision application, as well as the Planning Commission's original recommendation. Any extension of time granted pursuant to this Section shall be conditioned upon the proposed subdivision's compliance with all subdivision requirements in effect on the date that such extension is granted. If the plan is denied, the request or one that is substantially similar may not be reviewed by the Planning Commission for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees. If a preliminary development plan is not submitted within said time limit or an extension has not been granted, a preliminary plat must again be submitted before action may be taken on the final development plan.

E. Final Development Plan (Phase 3 of the Planned Unit Development Process)

- 1. **Intent.** The intent of the final development plan is to define the standards associated with a specific proposed Planned Unit Development Overlay District.
- 2. **Detailed Final Development Plan Submittal Requirements.**
 - a. *Final Development Plan Map.* Prepare the final development plan map using the final plat map as the base. See the *Workbook* for sample certificates for the owner, Planning Commission, Board of Trustees and Clerk and Recorder. Include on the base a clear graphic and written representation of all of the information/items required for a preliminary development plan as listed above, in finalized form. Provide any additional relevant information that the Town may deem necessary.
- 3. **Final Development Plan Review Criteria.** In addition to all of the review criteria for a preliminary development plan, the following review criteria will be used by the Town Staff and Board of Trustees to evaluate all PUD applications at the time of final plan/final plat:

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- a. The final development plan is substantially consistent with the preliminary development plan as approved by the Board of Trustees.
 - b. All preliminary development plan conditions of approval have been adequately addressed on the final development plan.
 - c. Compliance with PUD District/Final Development Plan. The Board of Trustees may initiate the process to repeal the ordinance establishing the PUD District if:
 - (1) The project for which the PUD zone was established is not carried out pursuant to the approved final development plan; provided, however, that the Board of Trustees may approve appropriate modifications to the final development plan from time to time prior to completion of the proposed development; or
 - (2) Building activity for the PUD District has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Board of Trustees.
6. **Expiration of Final Development Plan.** If the final development plan is not recorded within six (6) months from the date of the Board of Trustees' approval, such approval shall be null and void. This time period may be extended by the Board of Trustees for up to one additional three (3) month period for good cause shown. The subdivider must petition in writing for an extension prior to the expiration of the original six (6) months. No extension will be granted if it is determined that it will be detrimental to the Board of Trustees. If any of the fees charged as a condition of subdivision approval, have increased, the Town may require that the bond estimate be recalculated and that the subdivider pay any applicable fee increases as a condition of granting an extension. If the plan is denied, the request or one that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees. If a final development plan is not finalized within said time limit or an extension has not been granted, a final development plan must again be submitted before any further action may be taken.

F. **Minor Subdivision.**

1. **Intent.** The intent of the minor subdivision application is to simplify the permitting process for creating twelve (12) or fewer lots. For example, if a property had been platted for a large commercial use and the landowner wishes to create several lots for smaller commercial users, the applicant could utilize this process. The minor subdivision process is not meant for consecutive minor subdivisions. For example, if a landowner divides a 100-acre property into five lots, he/she may not use this process to continue to divide the property in the future to avoid having to comply with the major subdivision process.
2. **Applicability.** A minor subdivision plat shall not be approved if the property is within any parcel or lot any part of which has been subdivided through the minor subdivision process within three (3) years preceding the date of the current application.

3. Detailed Minor Subdivision Submittal Requirements.

- a. Minor Subdivision Plat.** The minor subdivision plat drawing shall comply with the following standards:
- i. The plat shall be prepared by or under the direct supervision of a registered land surveyor and meet applicable State requirements.
 - ii. Noncontiguous parcels shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
 - iii. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.
 - iv. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).
 - v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - vi. The minor subdivision plat shall be twenty-four (24) inches high by thirty-six (36) inches wide and shall provide the following information:
 - (1) Title of project.
 - (2) North arrow, scale (not greater than 1" = 100') and date of preparation.
 - (3) Vicinity map.
 - (4) Legal description.
 - (5) Basis for establishing bearing.
 - (6) Names and addresses of owners, applicant, designers, engineers and surveyors.
 - (7) Names of adjacent subdivisions.
 - (8) Total acreage of subdivision.
 - (9) Bearings, distances, chords, radii, central angles and tangent links for the perimeter, and all lots, blocks, rights-of-way and easements.
 - (10) Lot and block numbers, numbered in consecutive order, and square footage of each lot or tract.
 - (11) Excepted parcels from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.

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- (12) Existing and proposed rights-of-way and easements in and adjacent to subject property (labeled and dimensioned).
 - (13) Existing and proposed street names for all streets on and adjacent to the property.
 - (14) Existing and proposed easements and their type in and adjacent to subject property (labeled and dimensioned).
 - (15) Location and description of monuments.
 - (16) Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat).
 - (17) Location of existing and proposed oil and gas facilities, their required setbacks, associated flows lines, existing and proposed relocation, name of owner and facility.
 - (18) Location of archaeologically significant or historic sites
 - (19) Certificate blocks for signatures of owner, surveyor, utility providers and Town approval, as applicable (see Workbook for examples).
 - (20) Certification of ownership and dedication of streets, rights-of-way, easements and public sites (see *Workbook* for sample).
- b. **Grading and Drainage Plan and Report.** This plan and report must be certified by a Colorado registered professional engineer, including storm drainage concepts such as locations for on-site detention or downstream structural improvements and soil erosion and sedimentation control plans and specifications. It must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site as well as any FEMA applications required.
- c. **Master Utility Plan.** This plan shall show:
- i. Location and size of existing utilities within and adjacent to the subdivision, including water, sewer, electricity, gas and telephone;
 - ii. Proposed utility system including water mains, sewers, other utility mains (electricity, gas, telephone) and any other services that shall supply the subdivision. All utilities must be constructed within approved easements;
 - iii. Utility clearance record showing approval by utilities companies that service can be supplied (form supplied by Town).
- d. **Traffic Study.** This study must be prepared by a professional traffic engineer (if required by Staff).
- e. **Draft of Proposed Covenants and Architectural Design Guidelines** (if required by Staff).
- f. **Water Information.** Provide a statement regarding the historic use of water on the property and a description of the water currently on or attached to the property.

5. **Post Approval Actions.** The applicant shall submit the following documentation to the Town Clerk:
 - a. *List of Contractors.* List of all contractors that will be performing the improvements.
 - b. *Proof of Insurance.* Proof of workman's comprehensive insurance and liability insurance for each contractor.
 - c. *Open Space Deed Restriction.* Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space in perpetuity.
 - d. *Other Certificates, Affidavits, Enforcements or Deductions.* As required by the Planning Commission or Board of Trustees.
6. **Expiration of Minor Subdivision Plat.** Approval and conditional approval of minor subdivision plat shall be effective for one (1) year. If the plan is denied, the request or one (1) that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees. If a minor subdivision plat is not submitted within said time limit or an extension has not been granted, it must again be submitted before action may be taken.

D. Site Plan.

1. **Intent.** The site plan is needed in order to apply for a building permit for all multi-family, commercial, and industrial developments. The site plan shows how the lot will be developed so that the Town can make sure that the site design will be in compliance with all Town regulations.
2. **Detailed Site Plan Submittal Requirements.**
 - a. **Site Plan Map.** The site plan map shall be a minimum of twenty-four (24) inches by thirty-six (36) inches (unless otherwise approved by staff) and shall provide the following information:
 - i. Title of project.
 - ii. North arrow, scale (no greater than 1"=50') and date of preparation.
 - iii. Vicinity map.
 - iv. Address of project.
 - v. Legal description of property.
 - vi. Name, address and phone number of property owner.
 - vii. Name, address and phone number of person or firm responsible for plan.
 - viii. Lot size (square footage).
 - ix. Bearings and distances of all lot lines.
 - x. Existing and proposed easements and rights-of-way.

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- xi. Existing and proposed paved areas and sidewalks on the site and in the adjacent rights-of-way, all dimensioned, showing how pedestrians will have access to the site and buildings.
- xii. Gathering areas for people.
- xiii. Existing and proposed curb cuts on the site and in the adjacent rights-of-way (on both sides of perimeter streets), all dimensioned.
- xiv. Existing and proposed one (1) foot contours.
- xv. Existing waterways on or adjacent to the site.
- xvi. Finished floor elevations for all structures.
- xvii. Footprint (including roof overhangs and eaves, decks, balconies, outside stairs and landings) of all proposed structures and their use with their dimensions and locations noted with respect to the property lines.
- xviii. Existing structures and their use.
- xix. Square footage of proposed the proposed building(s) and the footprint of the proposed building(s).
- xx. Proposed structure height.
- xxi. For commercial and industrial uses, the type of activity, number of employees, and hours of operation.
- xxii. For multi-family residential, the number of: residential units and bedrooms per unit.
- xxiii. Location of proposed signs and lights.
- xxiv. Specifications for the signs and lights, including type, height and general conformance to the Code.
- xxv. Proposed traffic controls and striping for parking areas (all lanes, driveways, and parking spaces must be dimensioned).
- xxvi. Trash disposal areas and enclosures including specifications for enclosures.
- xxvii. Location and size of existing and proposed water and sewer service connections and tap sizes (including those for irrigation systems).
- xxviii. Location and size of water and sewer lines to which the service connections will be or are made.
- xxix. Location and size of water meter(s).
- xxx. Location and size of backflow-prevention devices.
- xxxi. Indication of how and where perimeter drain will drain (if one exists).
- xxxii. Location of existing electrical lines and poles on or adjacent to the site.
- xxxiii. Location of proposed electrical service connection and meter location.
- xxxiv. Location of electric transformer.
- xxxv. Location of all fire hydrants. If none exist on site, note distance and direction of the closest hydrant adjacent to the site within 500 feet.
- xxxvi. Location of detention/retention areas and storm sewer infrastructure with the required drainage easements.
- xxxvii. Adjacent land uses and landowners.
- xxxviii. The distance from the proposed building(s) or structure(s) to adjacent lot lines, easements, and adjacent structures.
- xxxix. A land use chart (table).
- xl. Location of existing and proposed oil and gas facilities and their required setbacks, including existing flow lines and proposed relocation of flow

- lines.
 - xli. Location of archaeologically significant or historic sites or structures that merit preservation.
 - xlii. Certificate blocks for signatures of owner, surveyor, utility providers, and Town approval, as applicable (see *Workbook* for samples).
- b. **Certified Drainage Report** - A certified drainage report, including an erosion control study and plan.
 - c. **Exterior Elevations of Proposed Structures/Graphic Visual Aids.** Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s). In addition, Staff may require building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
 - d. **Photometric Plan.** For commercial and industrial uses, a photometric plan prepared by a qualified electrical or lighting engineer shall be submitted that depicts all lighting fixtures and the light spread (in footcandles) of these fixtures across the site to all property boundaries.
 - e. **Traffic Study.** This study must be prepared by a professional traffic engineer.
3. **Site Plan Review Criteria.** The site plan must meet the following review criteria:
- a. All of the information required on a site plan is shown.
 - b. The lot size and lot dimensions are consistent with what is shown on the approved final plat.
 - c. No buildings or structures infringe on any easements.
 - d. The proposed site grading is consistent with the requirements of the Town's adopted storm drainage criteria or master drainage plans.
 - e. The density and dimensions shown conform to the *Nunn Zoning Code* Density and Dimensional Standards (Section 3.6) or the approved PUD requirements.
 - f. The applicable *Community Design Principles and Development Standards* have been adequately addressed and the proposed improvements conform with Article 2.
 - g. The proposal protects the health, safety and well-being of residents.
4. **Expiration of a Site Plan.** Unless otherwise specified, once a site plan review has been approved by the Board of Trustees, the applicant has one (1) year to establish the permitted use. If the permitted use has not been established or construction to

accommodate that use begun within one year following approval and diligently pursued, it shall become null and void. The applicant must petition in writing for an extension prior to the expiration. If any of the fees charged as a condition of approval, have increased, the Town may require that the bond estimate be recalculated and that the applicant pay any applicable fee increases as a condition of granting an extension. Failure of an applicant or developer to comply with any conditions of approval for an approved site plan shall make the approval null and void. Once a permitted use has been established in accordance with the conditions of approval and the site plan has been recorded, the plan will be valid until revoked unless there is a specific expiration date.

H. Change of Zone.

1. **Intent.** Amendments to the zoning district map may be initiated by the Board of Trustees, Town Staff, the Planning Commission, or by a real property owner in the area to be included in the proposed amendment.
2. **General Rezoning of the Town.** Whenever the zoning district map or text is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision be made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for thirty (30) days prior to the public hearing on such amendments.
3. **Change of Zone Map.** The change of zone map shall be twenty-four (24) inches high by thirty-six (36) inches wide, with the following information:
 - a. North arrow, scale (1" = 100' or 1" = 200'), title of project and date of preparation.
 - b. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.
 - c. Legal description of area to be zoned (entire area and individual zoning districts). In unsubdivided property, zone boundaries shall be determined by a metes and bounds description.
 - d. Location and boundaries, including dimensions, of the property(s) proposed for rezoning. Note: Zone boundaries are to be the center lines of physical streets, roads, highways, alleys, railroad rights-of-way, and channelized waterways, or such lines extended.
 - e. The acreage or square footage contained within the property proposed for rezoning.
 - f. All existing land uses in the proposed rezoning area.

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- g. Zoning and existing land uses on all lands adjacent to the proposed rezoning.
 - h. The location and dimensions for all existing public rights-of-way including streets, and centerlines of water-courses within and adjacent to the rezoning.
 - i. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.
 - j. Certificate blocks for Surveyor, Planning Commission, Board of Trustees, and Weld County Clerk and Recorder (see *Workbook* for examples).
 - k. An AutoCAD™ drawing file (release 12 or higher) of the zoning amendment map on CD or by other acceptable electronic transfer shall also be provided.
4. **Written Statement.** A written description of the proposed change to the text of this Article, including the citation of the portion of the Article to be changed and the wording of the proposed change. The written description should also address the following points:
- a. Need for the proposed rezoning;
 - b. Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area;
 - c. Impact of the proposed zone on area accesses and traffic patterns;
 - d. Availability of utilities for any potential development;
 - e. Present and future impacts on public facilities and services, including, but not limited to, fire, police, water, sanitation, roadways, parks, schools, and transit;
 - f. The relationship between the proposal and the *Nunn Comprehensive Plan*; and
 - g. Public benefits arising from the proposal.
 - h. Current proof of ownership in the form of title commitment issued within thirty (30) days of submission of the application (for zoning map amendments only).
5. **Change of Zone Review Criteria.** For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map or text shall not be amended except:
- a. To correct a manifest error in an ordinance establishing the zoning for a specific property;
 - b. To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally; or

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- c. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the *Nunn Comprehensive Plan*; or
- d. The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the *Nunn Comprehensive Plan*, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan; or
- e. The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
- f. A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development; or
- g. The rezoning is consistent with the zoning district characteristics and locational criteria set forth in Section 3.6 of this code; or
- h. This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map.

I. Use by Special Review.

1. **Intent.** In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a use by special review permit. Because of their unusual or special characteristics, uses by special review require evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to assure compatibility and harmonious development between use by special reviews, surrounding properties and the Town at large. Use by special reviews may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the use by special reviews will be in accordance with the use by special review criteria. The scope and elements of any use by special review may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for use by special review permits shall be denied.

2. Detailed Use by Special Review Submittal Requirements

- a. Use by Special Review Map. The use by special review map shall be a minimum of twenty-four (24) inches by thirty-six (36) inches (unless otherwise approved by staff) and shall provide the following information:
 - i. Title of project.
 - ii. North arrow, scale (no greater than 1"=50') and date of preparation.
 - iii. Vicinity map.

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- iv. Address of project.
- v. Legal description of property.
- vi. Name, address and phone number of property owner.
- vii. Name, address and phone number of person or firm responsible for plan.
- viii. Lot size (square footage).
- ix. Bearings and distances of all lot lines.
- x. Existing and proposed easements and rights-of-way.
- xi. Existing and proposed paved areas and sidewalks on the site and in the adjacent rights-of-way, all dimensioned, showing how pedestrians will have access to the site and buildings.
- xii. Gathering areas for people.
- xiii. Existing and proposed curb cuts on the site and in the adjacent rights-of-way (on both sides of perimeter streets), all dimensioned.
- xiv. Existing and proposed one (1) -foot contours.
- xv. Existing waterways on or adjacent to the site.
- xvi. Finished floor elevations for all structures.
- xvii. Footprint (including roof overhangs and eaves, decks, balconies, outside stairs and landings) of all proposed structures and their use with their dimensions and locations noted with respect to the property lines.
- xviii. Existing structures and their use.
- xix. Square footage of proposed the proposed building(s) and the footprint of the proposed building(s).
- xx. Proposed structure height.
- xxi. For commercial and industrial uses, the type of activity, number of employees and hours of operation.
- xxii. For multi-family residential, the number of: residential units and bedrooms per unit.
- xxiii. Location of proposed signs and lights.
- xxiv. Specifications for the signs and lights, including type, height and general conformance to the Code. For commercial and industrial uses, a photometric plan prepared by a qualified electrical or lighting engineer shall be submitted that depicts all lighting fixtures and the light spread (in footcandles) of these fixtures across the site to all property boundaries.
- xxv. Proposed traffic controls and striping for parking areas (all lanes, driveways, and parking spaces must be dimensioned).
- xxvi. Trash disposal areas and enclosures including specifications for enclosures.
- xxvii. All oil and gas facilities and the required setback, including existing flowlines, and proposed relocation of flowlines.
- xxviii. Archaeological or historic site that merit preservation.
- xxix. Location and size of existing and proposed water and sewer service connections and tap sizes (including those for irrigation systems).
- xxx. Location and size of water and sewer lines to which the service connections will be or are made.
- xxxi. Location and size of water meter(s).
- xxxii. Location and size of backflow-prevention devices.
- xxxiii. Indication of how and where perimeter drain will drain (if one exists).

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- xxxiv. Location of existing electrical lines and poles on or adjacent to the site.
 - xxxv. Location of proposed electrical service connection and meter location.
 - xxxvi. Location of electric transformer.
 - xxxvii. Location of all fire hydrants. If none exist on site, note distance and direction of the closest hydrant adjacent to the site within 500 feet.
 - xxxviii. Location of detention/retention areas and storm sewer infrastructure with the required drainage easements.
 - xxxix. The distance from the proposed building(s) or structure(s) to adjacent lot lines, easements, and adjacent structures.
 - xl. A land use chart (table).
 - xli. Certificate blocks for signatures of owner, surveyor, utility providers, and Town approval, as applicable (see *Workbook* for samples).
 - xlii. Address how potential impacts of the proposed use on the neighborhood will be mitigated including traffic, noise, odors, hours of operation, light, dust, erosion, building type and scale.
- b. **Written Statement.** Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all use by special review criteria have been satisfied. The written description should address how the proposed development conforms to this Land Use Code (including the *Community Design Principles and Development Standards* and the *Zoning Code*) and the *Nunn Comprehensive Plan* and how any potential impacts to the community's air, water and soil quality will be mitigated.
- c. **Grading and Drainage Plan and Report.** This plan and report must be certified by a Colorado registered professional engineer, including storm drainage concepts such as locations for on-site detention or downstream structural improvements and soil erosion and sedimentation control plans and specifications. The plan must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site as well as any FEMA applications required.
- d. **Master Utility Plan.** This plan shall show:
- i. Location and size of existing utilities within and adjacent to the subdivision, including water, sewer, electricity, gas and telephone;
 - ii. Proposed utility system including water mains, sewers, other utility mains (electricity, gas, telephone) and any other services that shall supply the subdivision. All utilities must be constructed within approved easements;
 - iii. Utility clearance record showing approval by utilities companies that service can be supplied (form supplied by Town).
- e. **Traffic Study.** This study must be prepared by a professional traffic engineer (if required by Staff).

4. **Use by Special Review Criteria.** The Town shall use the following criteria to evaluate the applicant's request:
 - a. The use by special review will satisfy all applicable provisions of the zoning code and subdivision regulations unless a variance is being requested.
 - b. The use by special review will conform with or further the goals, policies and strategies set forth in the *Nunn Comprehensive Plan*.
 - c. The use by special review will be adequately served with public utilities, services, and facilities (i.e. water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
 - d. The use by special review will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district and it will protect the health, safety and well-being of residents.
 - e. The use by special review will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
 - f. Potential negative impacts of the use by special review on the rest of the neighborhood or of the neighborhood on the use by special review have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts:
 - i. Traffic;
 - ii. Activity levels;
 - iii. Light;
 - iv. Noise;
 - v. Odor;
 - vi. Building type, style and scale;
 - vii. Hours of operation;
 - viii. Air quality (including dust), water quality and soil quality; and
 - ix. Erosion control.
 - g. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.

5. **Expiration of a Use by Special Review.** Unless otherwise specified, once a use by special review has been approved by the Board of Trustees, the applicant has one year to establish the permitted use. If the permitted use has not been established or construction to accommodate that use begun within one year following approval and diligently pursued, it shall become null and void. The applicant must petition in writing for an extension prior

to the expiration. If any of the fees charged as a condition of approval, have increased, the Town may require that the bond estimate be recalculated and that the applicant pay any applicable fee increases as a condition of granting an extension. Failure of an applicant or developer to comply with any conditions of approval for an approved use by special review shall make the approval null and void. Once a permitted use has been established in accordance with the conditions of approval and the use by special review map has been recorded, the special use approval shall run with the land in perpetuity, unless the use is specifically determined to be temporary in nature or the use is discontinued. The special use approval shall apply only to the land area contained within the parcel, lot, condominium unit, or other legally defined location for which the special land use approval was granted.

J. Wireless Telecommunication Services, Facilities and Equipment.

1. **Intent.** In order to provide for the establishment of wireless telecommunication services, facilities and equipment within the Town of Nunn, the Town shall review each application for wireless facilities as a use by special review. It is unlawful for any person to install or operate such a wireless telecommunication services facility unless a use by special review has first been approved by the Board of Trustees as provided in Section 4.9 G(3) of this Article. The approval of such use by special review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, state and federal governments. Wireless telecommunication services facilities shall be permitted only in the industrial zoning district (I).
2. **Detailed Use by Special Review for Wireless Telecommunications Services, Facilities and Equipment Application Requirements.**
 - a. *Wireless Telecommunication Service Facility Site Plan.* The site plans for a wireless telecommunication service facility shall be submitted on one (1) or more plats or maps, at a scale not less than 1" = 50', showing the following information:
 - i. The proposed size, location and boundaries of the commercial mobile radio service facility site, including existing and proposed topography at two (2) foot intervals, referenced to USGS data, state plane coordinates and a legal description of the proposed site;
 - ii. Elevations of all towers and equipment, indicating materials, overall exterior dimensions and colors;
 - iii. True north arrow;
 - iv. Locations and size of existing improvements, existing vegetation, if any; location and size of proposed improvements, including any landscaping;
 - v. Existing utility easements and other rights-of-way of record, if any;
 - vi. Location of access roads;
 - vii. The names of abutting subdivisions or the names of owners of abutting, unplatted property within three hundred (300) feet of the site; zoning and uses of adjacent parcels; and
 - viii. Current proof of ownership in the form of title commitment issued within thirty (30) days of submission of the application.

- b. *Vicinity Maps.* The vicinity maps submitted with an application under this Article shall include one (1) or more maps showing the location of existing and planned commercial mobile radio service facilities belonging to the applicant, within five (5) miles of the proposed facility. Planned facilities may be identified in general terms and need not be address specific.

- c. *Written Narrative.* The application shall include the following in narrative form:
 - i. The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable;
 - ii. An explanation of the need for such a facility, operating plan and proposed coverage area;
 - iii. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility;
 - iv. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC);
 - v. Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields;
 - vi. Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts;
 - vii. Affirmation that the facility will not interfere with any public safety frequencies servicing the Town and its residents;
 - viii. Affirmation that, if approved, the applicant and surface owner will make the facility available, on a reasonable basis, to other service providers; and
 - ix. An explanation of compatibility with the *Nunn Comprehensive Plan*.

- d. *Height and Setback Requirements.* In all performance districts where wireless telecommunications service facilities are allowed as uses by conditional review, the following apply:
 - i. Roof- or building-mounted commercial mobile radio service facilities may protrude no more than five (5) feet above the parapet line of the building or structure, nor more than two and one-half (2½) feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval;
 - ii. Roof- or building-mounted whip antenna(s) of no more than three (3) inches in diameter, in groupings of five (5) or less, may extend up to twelve (12) feet above the parapet wall; and even if the building is constructed at or above the building height limitations contained above, the additional fifteen (15) feet is permissible.

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- iii. Applicable zoning setback requirements of this Article must be met. At a minimum, all freestanding facilities shall be set back at least three hundred (300) feet from all residentially zoned properties or residential structures on properties otherwise zoned.
- e. *Accessory Buildings Requirements.*
 - i. Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.
 - ii. Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.
- f. *Building- or Roof-Mounted Facilities Requirements.* Building- or roof-mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient and in compliance with any requirements of the International Building Code latest adopted edition.
- g. *Freestanding Wireless Telecommunications Facilities Requirements.* All freestanding wireless telecommunications facilities shall be designed and constructed in such a manner that they are:
 - i. Capable of serving, through original construction, expansion or replacement, a minimum of two (2) users;
 - ii. Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved;
 - iii. Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings;
 - iv. Hold only lighting required by the Federal Aviation Administration; and no signage;
 - v. No higher than fifty (50) feet from the ground, with an additional twenty (20) feet per co-locating user permitted, up to seventy (70) feet. Exceptions may be granted upon request by the applicant; and
 - vi. Constructed in accordance with a certified engineer's specifications and in compliance with all applicable U.B.C. provisions.
 - vii. Whether manned or unmanned, wireless telecommunication facilities shall be consistent with the architectural style of the surrounding architectural environment (planned or existing) considering exterior materials, roof form, scale, mass, color, texture and character. Such facilities shall also be compatible with the surrounding natural environment considering land forms, topography, and other natural features. If such facility is an

- accessory use to an existing use, the facility shall be constructed out of materials that are equal to or better than the materials of principal use.
- viii. Stealth technologies shall be used to screen the facility to the maximum extent possible.
- h. *Conditional Mitigation Measures Co-location.*
- i. The Town encourages co-location of wireless telecommunications facilities to minimize the number of sites.
- ii. No wireless telecommunications facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by conditional review or site development plan.
- i. *Abandonment.* At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six (6) months shall be disassembled within twelve (12) months of the last use.
- j. *Penalty.* Any person who constructs, installs or uses, or who causes to be constructed, installed or used, any wireless telecommunications facility in violation of any provision of this Article or of the conditions and requirements of the use by special review permit, may be punished as provided in Article 6 of this Code. Each day of unlawful operation constitutes a separate violation.
- k. *Civil Action.* In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used or any land is or is proposed to be used in violation of any provision of this Article or the conditions and requirements of the commercial mobile radio service facility special use permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.
- l. *Location.* Subject to requirements of paragraph (l) of this Section, wireless telecommunication equipment may be attached to or mounted on any existing building or structure (or substantially similar replacement structure) located in any zone district of the town. Wireless telecommunication equipment shall not, however, be permitted to be attached to or mounted on any residential building containing four (4) or fewer dwelling units.
- m. *Landscaping.* Wireless telecommunication facilities and ground-mounted wireless telecommunications equipment may need to be landscaped with landscaping materials that exceed the levels established in Section 2.16 due to the unique nature of such facilities. Landscaping may therefore be required to achieve a total screening effect at the base of such facilities or equipment to screen the

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mechanical characteristics. A heavy emphasis on coniferous plants for year-round screening may be required.

- n. *Frontage.* If a wireless telecommunication facility or ground-mounted wireless telecommunication equipment has frontage on a public street, street trees shall be planted along the roadway in accordance with the Town of Nunn's landscaping regulations (Section 2.16).
- o. *Berming.* Berms shall be considered as an acceptable screening device. Berms shall feature slopes that allow mowing, irrigation, and maintenance.
- p. *Irrigation.* Landscaping and berming shall be equipped with water-efficient automatic irrigation systems.
- q. *Color.* All wireless telecommunication facilities and equipment shall be painted to match as closely as possible the color and texture of the wall, building or surrounding built environment. Muted colors, earth tones and subdued colors shall be used.
- r. *Lighting.* The light source for security lighting shall be high pressure sodium and feature down-directional, sharp cut-off luminaires so that there is no spillage of illumination off-site. Light fixtures, whether freestanding or tower-mounted, shall not exceed twenty-two (22) feet in height.
- s. *Interference.* Wireless telecommunication facilities and equipment shall operate in such a manner so as not to cause interference with other electronics such as radios, televisions, or computers.

3. Use by Special Review for Wireless Telecommunications Services, Facilities and Equipment Review Criteria. The recommendation of the Planning Commission and the decision of the Board of Trustees shall be based on whether the applicant has demonstrated that the proposed wireless telecommunications services facility meets the following standards:

- i. The site plan complies with the foregoing requirements;
- ii. The vicinity map complies with the foregoing requirements;
- iii. The narrative for the application complies with the foregoing requirements;
- iv. When applicable, compliance with the setback and height requirements;
- v. When applicable, compliance with the accessory building requirements; and
- vi. When applicable, compliance with conditional mitigation co-location requirements as set forth.

vii. The use will protect the health, safety and well-being of residents.

The review criteria shall be included in the ordinance granting approval of the use by special review.

4. **Expiration of Use by Special Review for Wireless Telecommunications Services, Facilities and Equipment.** Unless otherwise specified, once a use by special review for wireless telecommunications has been approved by the Board of Trustees, the applicant has one year to establish the permitted use. If the permitted use has not been established or construction to accommodate that use begun within one year following approval and diligently pursued, it shall become null and void. The applicant must petition in writing for an extension prior to the expiration. If any of the fees charged as a condition of approval, have increased, the Town may require that the bond estimate be recalculated and that the applicant pay any applicable fee increases as a condition of granting an extension. Failure of an applicant or developer to comply with any conditions of approval for an approved use by special review shall make the approval null and void. Once a permitted use has been established in accordance with the conditions of approval and the use by special review map has been recorded, the special use approval shall run with the land in perpetuity, unless the use is specifically determined to be temporary in nature or the use is discontinued. The special land use approval shall apply only to the land area contained within the parcel, lot, condominium unit, or other legally defined location for which the special land use approval was granted.

K. Appeals.

1. **Intent.** The Board of Adjustment shall hear and decide appeals from any order, requirement, decision, or determination made by any administrative official charged with the enforcement of this Code. In addition, the Board of Adjustment shall hear and decide all requests for a variance from the requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the *Nunn Comprehensive Plan* or impair the intent and purpose of this Code.
2. **Detailed Appeal Submittal Requirements.**
- a. **Appeal Application.**
- i. Any aggrieved person of interest may appeal a denial of a building permit, or any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of this Code.
- ii. An appeal to the Board of Adjustment shall be made within ten (10) days after denial of a building permit or other development permit, or receipt of a written notice of an order, requirement, decision, interpretation or determination by an administrative official of the Town. Failure to make a timely appeal shall be considered a waiver of the appellant's rights to appeal to the Board of Adjustment.

- iii. The applicant shall file with the Town Clerk a written notice of appeal on a form approved by the Board and pay the fee set by the current fee schedule.
 - iv. The Town Clerk shall forward a copy of the notice of appeal to the other appropriate administrative officer, who shall prepare a record of the Town action that is being appealed for consideration by the Board of Adjustment.
3. **Appeal Criteria for Approval.** The Board of Adjustment, in hearing an appeal from an interpretation of the *Nunn Land Use Code*, shall consider:
- a. The technical meaning of the provision being appealed;
 - b. Evidence of the manner in which the provision has been interpreted in the past;
 - c. The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and
 - d. The intent of the provision in implementing the *Nunn Comprehensive Plan*.
 - e. In approving a requested interpretation, the Board of Adjustment shall provide a written record of its findings and the staff shall use it to propose amendments that address future interpretation problems.
4. **Board of Adjustment Public Hearing and Action on the Appeal Request.** The Board of Adjustment ("Board") shall make the decision on appeals and variances at a regular meeting of the Board.
- a. The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the Board.
 - b. The Board shall have all the powers of the applicable Town administrative official on the action appealed. The Board may in whole or in part affirm, reverse or amend the decisions of the applicable Town administrative official.
 - c. The Board may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of the Nunn Land Use Code.
 - d. The Board may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested.
 - e. No single decision of the Board sets a precedent. The decision of the Board shall be made on the particular facts of each case.

- f. Variances granted by the Board of Adjustment shall be recorded with the Weld County Clerk and Recorder at the expense of the applicant.
- g. Any appeal of the decision of the Board of Adjustment may be made to the District Court as provided by law; provided however, that such appeal must be made prior to thirty (30) days following the date of the final action taken by the Board of Adjustment, as provided by Rule 106, Colorado Rules of Civil Procedure.

L. Variances.

1. **Intent.** Any person of interest, or an officer or department of the Town may apply to the Board of Adjustment for a variance from the literal interpretation of the provisions this Code.
2. **Detailed Variance Application Submittal Requirements.**
 - a. *Explanation Letter.* Identify the variance being requested, a citation of the portion of the Nunn Land Use Code from which relief is requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists to require the variance. The letter shall also address how the variance, if granted, will not be detrimental to the public good, create a conflict with the Nunn Comprehensive Plan or impair the intent and purpose of this Code.
 - b. *Map.* Staff will dictate map requirements based on the variance being requested. The map shall typically consist of a scale drawing depicting the property affected by the variance request, including, but not limited to, required or existing setbacks and proposed setbacks from adjacent lot lines or structures and any other information that will assist the Board of Adjustment in understanding the request.
3. **Variance Criteria for Approval.**
 - a. The Board of Adjustment shall not grant a variance to the *Nunn Land Use Code*, which:
 - i. Permits a land use not allowed in the zoning district in which the property is located; or
 - ii. Is in the public right-of-way or on public property; or
 - iii. Alters any definition of the *Nunn Land Use Code*; or
 - iv. Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the *Nunn Land Use Code*; or

- v. Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to of the *Nunn Land Use Code*; or
 - vi. Is based exclusively on findings of personal or financial hardship. Convenience, profit or caprice shall not constitute undue hardship.
 - b. In order to grant a variance to the *Nunn Land Use Code*, the Board of Adjustment shall find that all the following have been satisfied:
 - i. Is based on physical conditions or circumstances of the property that are general and recurring throughout the Town; and
 - ii. The problem complained of must be unique to the particular property for which the variance is requested.
 - c. The condition of any variance authorized shall be stated in writing in the minutes of the Board of Adjustment with the justifications set forth. Four affirmative votes of the five member Board are required to overturn the decision of the administrative official.
- 4. **Expiration of a Variance.** Unless otherwise specified, once a variance has been approved by the Board of Trustees, the applicant has one (1) year to establish the permitted use. If the permitted use has not been established or construction to accommodate that use begun within one year following approval and diligently pursued, it shall become null and void. The applicant must petition in writing for an extension prior to the expiration. If any of the fees charged as a condition of approval, have increased, the Town may require that the bond estimate be recalculated and that the applicant pay any applicable fee increases as a condition of granting an extension. Failure of an applicant or developer to comply with any conditions of approval for an approved use by special review shall make the approval null and void. Once a permitted use has been established in accordance with the conditions of approval and the use by special review map has been recorded, the special use approval shall run with the land in perpetuity, unless the use is specifically determined to be temporary in nature or the use is discontinued. The special use approval shall apply only to the land area contained within the parcel, lot, condominium unit, or other legally defined location for which the special land use approval was granted.

M. Vacation of Right-of-Way or Easement.

- 1. **Intent.** The vacation of right-of-way or easement application process is used to vacate unnecessary easements and rights-of-way. The vacation of right-of-way or easement shall be in accordance with C.R.S. § 43-2-301, *et seq.* Title of the vacated right-of-way shall be given to the owners of the abutting land, each taking

ownership to the center of the roadway unless otherwise agreed to by the abutting property owners and accepted by the Board of Trustees.

2. Detailed Vacation of Right-of-Way/Easement Submittal Requirements.

a. **Vacation of Right-of-Way/Easement Map.** The vacation of right-of-way/easement map shall be a minimum of eleven (11) inches by seventeen (17) inches and provide the following information:

- i. Title of map.
- ii. North arrow, scale (whatever is appropriate) and date of preparation.
- iii. Vicinity map.
- iv. Legal description of right-of-way/easement to be vacated.
- v. Legal descriptions of the lots that will be formed as a result of vacation of the right-of-way.
- vi. Graphic representation of property to be vacated.
- vii. Acreage of property to be vacated.
- viii. Names and boundaries of adjacent subdivisions and streets.
- ix. Lot and block numbers of adjacent lots and blocks.
- x. Existing and proposed rights-of-way in and adjacent to subject property.
- xi. Existing and proposed easements in and adjacent to subject property.
- xii. Existing and proposed utility lines and/or facilities in and adjacent to subject property.
- xiii. All waterways and ditches in and adjacent to subject property.
- xiv. Type and location of existing structures and paved areas on the subject property.

b. **Petition for Vacation of Right-of-Way/Easement** A blank petition for vacation of right-of-way and a blank petition for vacation of easement are in the *Workbook*.

c. **Vacation of Right-of-Way/Easement Review Criteria Statement.** Provide a written description of how the vacation request addresses the four vacation of right-of-way/easement review criteria.

3. Vacation of Right-of-Way/Easement Review Criteria.

- a. The right-of-way or easement being vacated is not needed in the short or long term.
- b. If necessary, the right-of-way or easement will be replaced. To replace the right-of-way or easement, the vacation application shall be accompanied by a development application which proposes a new right-of-way or easement.

- c. The applicant is relocating all public facilities or utilities within the right-of-way or easement.
- d. The public and surrounding properties will not be negatively impacted by the vacation.
- e. In the event of a vacation of a right-of-way or easement, the Town reserves unto itself a utility easement within such right-of-way or easement unless the ordinance granting the vacation specifically states that no such reservation is made.

4.10 Minor Application Process

A. Application Process.

1. Step 1: Administrative Review Conference (if applicable). Prior to request for a minor application, the modified plans or maps (if applicable) shall be submitted for review by Staff in an informal conference with the applicant. The conference is intended to be for the mutual exchange of information and reasons for the request(s). A primary concern shall be the degree to which the proposal meet's the Town's land use policies and goals and strategies within the *Nunn Comprehensive Plan*. Staff shall communicate its decision to the application within ten (10) days of receiving the completed application.
2. Step 2: Application Package Submittal.
 - a. The applicant shall submit one (1) copy of the complete application package to the Town Clerk. The application shall include:
 - i. *Applicable Plan, Plat or Map.* Refer to Section 4.11 for the submittal requirements for type of each minor application.
 - ii. *Drainage Information.* Provide the Town with information regarding how the lot will drain, if requested by the Town Clerk or Board of Trustees.
 - iii. *Electronic Copy of Application Package.* Provide an Adobe pdf file of the complete application package.
3. Step 3: Staff Reviews Application and Prepares Comments. Staff will review the application to make sure is it consistent with its review criteria. Following the review, Staff will prepare a written report outlining any changes that must be made to the plan before it can be approved.
4. Step 4: Applicant Addresses Staff Comments. Applicant makes all necessary changes to the application and resubmits a revised copy to the Town.
5. Step 5: Staff or Planning Commission Action. Staff completes final review of the application to ensure that it is complete and complies with review criteria. If the application is determined completed, it is approved by Staff. In the case of a waiver Land Use Code amendment or Comprehensive Plan amendment, the application will be referred to the Planning Commission for final approval.
6. Step 6: Board of Trustees Action (if applicable). Staff and/or the Planning Commission may refer the application to the Board of Trustees for additional review and final evaluation.
7. Step 7: Board of Adjustment Consideration of Appeals. The Board of Adjustment shall consider any appeal within thirty (30) days of the close of the appeal period, except an appeal associated with a concurrent development application requiring Board review or approval, which the Board shall consider with final action on the concurrent development application. The Board shall apply the site plan review criteria to either uphold, modify or reverse the Staff's decision.

4.11 Detailed Submittal Requirements and Review Criteria for Minor Applications
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A. Plot Plan.

1. **Intent.** The plot plan is needed in order to apply for a building permit for any building or structure constructed on a single-family home or duplex lot. The plot plan shows where the proposed building or structure will be located on the lot so that the Town can make sure that the proposed location will be in compliance with all Town regulations.
2. **Detailed Plot Plan Submittal Requirements.**
 - a. **Plot Plan Map.** The plot plan map shall be a minimum of eleven (11) inches by seventeen (17) inches and shall provide the following information:
 - i. Title of project.
 - ii. North arrow, scale (1"=20' or as approved by the Town) and date of preparation.
 - iii. Name, address and phone number of property owner.
 - iv. Lot number, block number and name of subdivision.
 - v. Lot size (square footage).
 - vi. Bearings and distances of all lot lines.
 - vii. Existing easements on the lot.
 - viii. Footprint of the proposed building or structure, dimensioned.
 - ix. Square footage of the proposed building and the footprint of the proposed building.
 - x. Distance from the proposed building or structure to all lot lines.
 - xi. All existing buildings or structures on the lot.
 - xii. Driveway.
 - xiii. Existing and/or proposed water and sewer service lines on the lot.
 - xiv. Street trees (right-of-way landscaping) and landscaping required by the Town.
 - xv. Elevations of:
 - (1) The finished floor for the house and garage.
 - (2) The ground ten (10) feet away from the house and garage.
 - (3) The lot corners.
 - (4) Height of all proposed buildings.
 - (5) Street trees (right-of-way landscaping) and landscaping required by Town.
 - (6) Improvement location certificate.

- e. However, a nonconforming use or building that has been abandoned or discontinued for over one year is precluded from re-use without first obtaining a discretionary permit from the Town and/or meeting all existing code requirements.
- f. Extensions of Time. Prior to the expiration of the plot plan approval or discretionary permit, the applicant may request an extension of time. The request shall be in writing, and be accompanied by a nonrefundable filing fee established by the Town's most current fee schedule. After review, the Town Staff may extend the plot plan or permit for a period of one year provided that:
 - i. The condition of the project area has not changed significantly;
 - ii. The project conforms with the zoning code;
 - iii. The project is consistent with the general plan.
 - iv. The number of consecutive one-year extensions shall be limited to five.

B. Minor Modifications and Amendments to Recorded Plats.

1. **Intent.** Minor amendments are filed with the Weld County Clerk and Recorder to correct minor survey or drafting errors, erroneous lot sizes, misspellings, errors in legal descriptions that do not actually change the plat on a recorded plat, shall be prepared in the form of an affidavit or, where deemed necessary for clarity, a revised plat certified by a land surveyor licensed with the State of Colorado. All affidavits or corrected plats shall be reviewed and may be approved by the Planning Commission. Minor amendments shall also include name changes, changes in the size of lots, width of streets or other items that do not arise to the level of resubdivision. Amendments to a recorded plat which do not increase the number of lots or relocate or add roads or do not create more than twelve (12) total lots shall be submitted as a minor subdivision plat. The minor subdivision plat shall be prepared and submitted in compliance with the minor subdivision plat requirements of this Article (Section 4.9F).
2. **Applicability.** The Planning Commission may grant minor modifications to approved site plans, site-specific development plans, final development plans, and final subdivision plats, and from specified development standards as stated in Article 3.
3. **Detailed Minor Modification and Amendment Submittal Requirements.**
 - a. **Concurrent review for minor modifications from development standards.** Requests for minor modifications from specified development standards may be submitted concurrently with any other required development applications, such as applications for preliminary subdivision plat approvals, uses by special review or site plans. In such cases, the Planning Commission shall review and take action on the minor modification during the review of the primary development action.
 - b. **Planning Commission Authority.** The Planning Commission may grant minor modifications to approved site plans, final development plans, final plats, and

other approved final plans. In no circumstance, however, shall the Planning Commission approve a plan or plat modification that results in:

- i. An increase in building height;
 - ii. An increase in the floor area ratio (FAR) by greater than ten percent (10%) as calculated on a total project basis;
 - iii. A change in permitted uses or mix of uses if the proposed uses are more intensive than the approved uses;
 - iv. An increase in overall project density; or
 - v. A change that would require resubdivision or a boundary/lot line adjustment.
- c. **Minor modifications from development standards.** The Planning Commission may grant minor modifications up to a maximum of twenty percent (20%) from the following development standards:
- i. Minimum lot area requirements.
 - ii. Building setback requirements.
 - iii. Driveway access standards.
 - iv. Tree/vegetation protection standards.
 - v. River/stream corridor, riparian area, or wetland setback requirements.
 - vi. Landscaping/buffer yard standards.
 - vii. Amount of off-street parking space requirements.
 - viii. Any other numeric standard stated in Article 2 (*Community Design Principles and Development Standards*), Article 3 (Zoning), Article 4 (Subdivision Regulations) or Article 7 (Signs), except for building height standards.
- d. **Minor modifications for alternative compliance.** The Planning Commission shall have the authority to grant minor modifications to any design standard stated in Article 2 (*Community Design Principles and Development Standards*) or Article 3 (Zoning) of this Land Use Code in order to encourage the implementation of alternative or innovative practices that provide equivalent benefits to the public.
- e. **Minor modifications to ensure compliance with the Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).** The Planning Commission shall have the authority to grant minor modifications to any use or development standard stated in Article 2 (*Community Design Principles and Development Standards*) or Article 3 (Zoning) of this Land Use Code in order to eliminate a substantial burden on religious exercise as guaranteed by RLUIPA, as amended.
- i. In no circumstance shall the Planning Commission approve a modification that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zoning district where Article 3 (Zoning) prohibits such use or accessory use/structure/activity.

4. **Minor Modification and Amendment to Recorded Plats Review criteria.** The Planning Commission may approve minor modifications only upon finding that:
 - a. The modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Amendments Act; or
 - b. The modification is necessary to eliminate a substantial burden on religious exercise as guaranteed by the federal RLUIPA of 2000; or
 - c. All of the following criteria have been met:
 - i. The requested modification is generally consistent with the *Nunn Comprehensive Plan* and is consistent with the stated purposes of this Land Use Code;
 - ii. As applicable, the requested modification is consistent with the approved final plan or plat;
 - iii. The requested modification eliminates an unnecessary inconvenience or practical difficulty to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
 - iv. Any adverse impacts resulting from the minor modification will be mitigated to the maximum extent practical; and
 - v. The requested minor modification is either:
 - (1) Of a technical nature and is required to compensate for some practical difficulty or unusual aspect of the site or the proposed development that is not shared by landowners in general; or
 - (2) An alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard sought to be modified.
5. **Expiration of Minor Modifications and Amendments to Recorded Plats.** Modifications to an approved site plan, site specific development plan, final development plan or final subdivision plat shall be noted on a revised plat or plan, which shall be plainly marked as *amended* and submitted to the Planning Commission. The Planning Commission shall note the terms of the approved minor modification directly on the amended plat or plan, and the Planning Commission Chair's signature and the date of approval shall be affixed. As applicable, such amended plan/plat shall be recorded within thirty (30) days of the Planning Commission's approval of the modification.
 - a. The Planning Commission shall specify any approved minor modifications from general development or zoning district standards and justifications for such modification on the pending development application for which the modifications were sought.

- b. As applicable, an approved minor modification shall be valid for the same time frame as the development approval with which it was joined or for the same time frame as the originally approved final plat or plan.
- c. In all other cases, an approved minor modification shall be valid for six (6) months, during which time the applicant shall commence substantial construction. If these actions are not taken within the six-month time period, the minor modification approval shall automatically lapse and be null and void.

C. Resubdivision.

- 1. **Intent.** The resubdivision of any lots, tracts or parcels, or the relocation or addition of streets within a subdivision, shall be considered a resubdivision (also known as a "replat") and shall be prepared and submitted in compliance with the requirements for subdivision as set forth in this Article. In the event that any dedicated streets are relocated as a result of a resubdivision, it is necessary for the Town to first vacate those existing streets, with said vacation to be effective prior to the approval of the final plat. Vacation of right-of-way shall conform to the requirements of Section 4.9M of this Article. Certain sketch plan, preliminary plat and final plat requirements may be waived at the discretion of the Board of Trustees.

D. Minor Replat.

- 1. **Intent.** "Minor Replat" means the division of a lot, tract, or parcel of land into more than five (5) lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development.
- 2. **Detailed Minor Replat Submittal Requirements.**
 - a. **Minor Replat.** The minor replat shall be an original drawing in black ink on 24" x 36" single/double matte mylar or a photographic black line positive mylar of the same and shall contain the following information:
 - i. Subdivision name, prior subdivision name, city, county and state;
 - ii. Legal description of the subdivision and land area contained therein;
 - iii. An Ownership and Encumbrance Report from a title company showing all holders of legal interest in the affected property;
 - iv. "Amendment History" Section outlining previous approval dates of Final Plats and changes being proposed;
 - v. Surveyor's certificate;
 - vi. Boundary lines, fully dimensioned of the subdivision, and all newly created lots;
 - vii. Scale (graphic and written), and north arrow;
 - viii. The submittal may include letters of comment from any referral agencies, departments, and/or homeowner's associations, where appropriate; and
 - ix. Other information deemed necessary by Town Staff to respond to the request.

3. **Minor Replat Review Criteria.** The minor replatting of a recorded plat may be granted if the applicant can demonstrate that the proposed replatting meets all of the following criteria:

- a. No lot or parcel of land shall be created or sold that is less than the minimum requirements for the area or dimensions as established by subdivision regulations, the zoning ordinance, or other applicable regulations or ordinances;
- b. Drainage and utility easements shall not be changed unless supported by complete engineering data acceptable to the Town Engineer;
- c. Street locations and street rights-of-way shall not be changed;
- d. No perimeter boundary of a recorded subdivision plat is affected;
- e. The plat shall not be altered in a way which adversely or substantially affect the character of the plat filed; and
- f. The minor subdivision shall not create more than five (5) lots.

4. **Expiration of Minor Replat.** If the minor replat is not recorded within six (6) months from the date of the Board of Trustees' approval, such approval shall be null and void. This time period may be extended by the Board of Trustees for up to one additional three (3) month period for good cause shown. The subdivider must petition in writing for an extension prior to the expiration of the original six (6) months. No extension will be granted if it is determined that it will be detrimental to the Board of Trustees. If any of the fees charged as a condition of subdivision approval, have increased, the Town may require that the bond estimate be recalculated and that the subdivider pay any applicable fee increases as a condition of granting an extension. If the plan is denied, the request or one that is substantially similar may not be reviewed by the Board of Trustees for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees. If a minor replat is not submitted within said time limit or an extension has not been granted, it must again be submitted before any further action may be taken.

E. Waivers.

1. **Purpose.** The Board of Trustees authorizes waivers from the Land Use Code in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan, or impair the intent and purpose of this Code.
2. **Detailed Waiver Submittal Requirements.**
 - a. *Waiver requests in conjunction with other applications.* In addition to the requirements of Sections 4.9 4.10 (depending on the type of application), the Applicant shall submit the following to the Town in conjunction with another application:
 - i. Explanation letter, identifying the waiver being requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the *Nunn Comprehensive Plan* or impair the intent and purpose of this Code.
3. **Waiver Review Criteria.** The condition of any waiver authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth. Waivers may be granted only if they meet the following criteria:
 - a. The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
 - b. The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the subdivision ordinance provisions which are in question.
 - c. Such practical difficulties or unnecessary hardship has not been created by the applicant.
4. **Expiration of Waiver.** Unless otherwise specified, once a waiver has been approved by the Board of Trustees, the applicant has one (1) year to establish the permitted use. If the permitted use has not been established or construction to accommodate that use begun within one year following approval and diligently pursued, it shall become null and void. The applicant must petition in writing for an extension prior to the expiration. If any of the fees charged as a condition of approval, have increased, the Town may require that the bond estimate be recalculated and that the applicant pay any applicable fee increases as a condition of granting an extension. Failure of an applicant or developer to comply with any conditions of approval for an approved use by special review shall make the approval null and void. Once a permitted use has been established in accordance

with the conditions of approval and the use by special review map has been recorded, the special use approval shall run with the land in perpetuity, unless the use is specifically determined to be temporary in nature or the use is discontinued. The special use approval shall apply only to the land area contained within the parcel, lot, condominium unit, or other legally defined location for which the special land use approval was granted.

F. Land Use Code Amendment.

1. **Intent.** The Board of Trustees may, from time to time, amend, supplement, change or repeal the regulations and provisions of this Code. Amendments to the text of the Land Use Code (Subdivision Regulations, *Community Design Principles and Development Standards* and Zoning) may be initiated by the Board of Trustees, Town Staff, Planning Commission or Planning Commission, or by written application of any property owner or resident of the Town.
2. **Land Use Code Amendment Review Criteria.** For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the text of this Code shall not be amended except:
 - a. To correct a manifest error in the text of this Code;
 - b. To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff;
 - c. To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or
 - d. To further the implementation of the goals and objectives of the Comprehensive Plan.

G. Comprehensive Plan Amendment.

1. **Intent.** The Planning Commission is the final decision maker on all requests to amend the Comprehensive Plan.
2. **Detailed Comprehensive Plan Amendment Procedures.**
 - a. If an amendment is suggested, the Planning Commission and Board of Trustees must decide if the suggested alteration is in the best interests of the community. Thus, a public hearing must be held regarding potential change and citizenry should be involved and notified of any potential change before a formal hearing is held.
 - b. A suggested amendment to the Nunn Comprehensive Plan must be done by an adopted resolution by the Board of Trustees.

3. **Comprehensive Plan Amendment Review Criteria.** The Comprehensive Plan may be amended pursuant to the following criteria:
- a. The amendment improves the implementation of one or more of the goals, policies, and strategies of *Nunn Comprehensive Plan*.
 - b. The amendment will not pose a detrimental impact on existing or planned Town facilities, services or transportation facilities.
 - c. The amendment will not interfere with the existing or emerging land use patterns and densities/intensities of the surrounding neighborhoods as depicted on the *Future Land Use Map* and contained within the *Nunn Comprehensive Plan*.
 - d. The amendment will not interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services.

4.12 Developer's Agreement

A. Developer's Agreement.

1. **Intent.** A Developer's Agreement (DA) stating the developer agrees to construct any required public improvements shown in the final plat documents together with collateral which is sufficient, in the judgment of the Board of Trustees, to make reasonable provision for the completion of said improvements in accordance with the design and time specifications will be required. The DA shall be submitted, reviewed by Staff and accepted by the Town during the final plat process. No subdivision plat shall be recorded at the office of the Weld County Clerk, and no building permit shall be issued for development until a DA between the Town and the developer has been executed. Such agreement shall include a list of all agreed-upon improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the Board of Trustees to ensure that all improvements will be completed in a timely, quality and cost-effective manner. A DA shall run with and be a burden upon the land described in the agreement. The estimate of the cost of improvements shall be completed by a licensed engineer. The financial guarantee for improvements must equal 120% of the estimated cost.
2. **Other Agreements.** Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the final plat documents may also be required.
3. **Improvements.** The following improvements shall be constructed unless waived by the Board of Trustees.
 - a. Road grading and surfacing.
 - b. Curbs.

- c. Street lights.
 - d. Sidewalks.
 - e. Sanitary sewer collection systems.
 - f. Storm sewers or storm drainage system, as required.
 - g. Potable water distribution including fire hydrants.
 - h. Utility distribution system for public parks and open space.
 - i. Street signs at all street intersections.
 - j. Permanent reference monuments and monument boxes.
 - k. Underground electricity, telephone, cable and gas lines.
 - l. Berm or fence along major arterial and collector streets.
 - m. Required landscaping.
 - n. Street trees.
 - o. Underdrains.
 - p. Required floodway improvements.
 - q. Required irrigation ditch improvements.
 - r. Permanent detention/retention ponds, as required.
4. **Inspections and Approval.** Upon completion of any phase or a series of construction improvements the developer shall request the Town to inspect public improvements. The Town shall within twenty (20) days of such request conduct an inspection as it may deem appropriate. If any item is not in compliance with the standards required or with the plans and specifications the Town shall within twenty (20) days of the inspection advise the owner in writing of any deficiency. Such deficiency shall be cured by the developer within thirty (30) days of the notice. The Town shall not accept any improvement which is not constructed to their required standards or the plans and specifications. If after the inspection the improvement is acceptable to the Town, the improvement shall be dedicated or conveyed to the Town pursuant to this code.
5. **Conditional Acceptance.** The owner may request in writing from the Town, inspection and conditional acceptance of improvements when all required improvements within the development are completed. Within fourteen (14) days of receipt of the request the

Town shall inspect the improvements and shall certify to the Board of Trustees whether or not the improvements are constructed in accordance with the approved standards, approved plans, construction drawings and change orders. The Town shall act on the developers request at its next regular meeting but not sooner than seven (7) days from receipt of the request and not more that forty-five (45) days from receipt of the request. If the improvements completed by the developer are unsatisfactory the Town shall provide written notice to the developer of the repairs, replacements, construction or other work required to receive "conditional" acceptance. The developer shall complete the needed repairs, replacements, construction or other work within thirty (30) days of said notice, weather permitting, and shall then resubmit his request for conditional acceptance in writing.

- a. If improvements completed by the Owner are satisfactory, the Town shall grant "conditional acceptance", which shall be subject to "final acceptance" as set forth herein. The Town shall provide notice of conditional acceptance in writing.
 - b. If the developer has not completed the improvements within thirty (30) days of said notice, the Town may exercise its rights to secure performance as may be provided in any subdivision improvements agreement or improvements guarantee.
 - c. Owner shall provide a statement of construction costs certified by the applicable professionals no later that forty-five (45) days after improvements are completed and shall furnish evidence that all contractors, subcontractors, and material suppliers performing work or providing material related to construction or installation of the improvements have been paid in full.
 - d. Owner shall provide the Town a Record Plan (as built) that has been certified by the applicable professionals on my and an electronic copy in PDF and AutoCAD formats no later than forty-five (45) days after the improvements are completed. The documents shall show "as-built" locations and design details of such improvements and final construction costs.
5. **Final Acceptance.** At least thirty (30) days before two (2) years have elapsed from the issuance of conditional acceptance, or as soon thereafter as weather permits, Owner shall request a "final acceptance" inspection. The Town shall inspect the improvements within fourteen (14) days of such request and shall notify the Owner in writing of all deficiencies and necessary repairs, if any.
- a. If there are no deficiencies, or after the developer has corrected all deficiencies and made all necessary repairs identified in the written notice, and after clear title to on-site and off-site rights of way and easements have been transferred to the Town by general warranty deed or other acceptable document and after all licenses and permits necessary for the development of the property and obtained by the developer have been transferred to the Town, the Town will adopt an ordinance or resolution for the acceptance of streets, rights of way and other public ways, easements, open spaces and other lands dedicated on the

plat and will accept the public improvements constructed by the developer for ownership and maintenance by the Town.

- b. If the developer does not correct all deficiencies and make all repairs identified in the "final acceptance" inspection to the Town's satisfaction within thirty (30) days after receipt of said notice the Town may exercise its rights to secure performance pursuant to the subdivision improvements agreement or any improvements guarantee.
 - c. If any mechanic's liens have been filed with respect to the public improvements, the Town may retain all or part of the improvement guarantee up to the amount of such liens until said liens have been released by claimant.
 - d. If developer fails to submit the improvements for the "final acceptance" inspection and obtain the Town's acceptance of the public improvements within two (2) years of the date of issuance of conditional acceptance, or if any improvements are found not to conform to applicable Town standards and specifications, then the guaranty period shall extend on a month to month basis.
6. **Improvement Guarantee.** The owner or developer of any property shall after final plat approval or final approval of a PUD, or approval of any project which requires the installation of any utility, street or other public improvements, shall post with the Town an improvement guarantee. Such guarantee shall be in the amount of at least one hundred twenty (120%) of the value of the proposed public improvements. Ten (10%) of the improvement guarantee will be held after conditional acceptance to guarantee improvements during the warranty period.
- a. Such public improvement guarantee shall be in the form of a cash deposit, an Irrevocable Letter of Credit or a Performance Bond. The cash deposit shall be deposited in a bank doing business in Weld County, Colorado, unless authority to accept a bank outside of Weld County is granted by the Board of Trustees. Any Irrevocable Letter of Credit shall be accepted only when issued by a bank doing business and having an office in the State of Colorado unless authority to use a bank outside of the State of Colorado is authorized by the Board of Trustees. A Performance Bond shall be issued by a company with an A.M. Best size and rating approved by the Board of Trustees. Performance Bonds and Irrevocable Letter of Credit shall be in a form acceptable to the Board of Trustees.
 - b. The Town may review cost estimates and require an increase in any improvement guarantee based upon increased costs as set forth in the construction cost index published by the Engineering News Record.
 - c. No improvements guarantee shall be released until the public improvement has been inspected by the Town and the release of the improvement guarantee is authorized in writing by the Town Manager or the Board of Trustees.

- d. If any improvement is not completed to the Town's satisfaction within the period set forth in the Developer's Agreement and after thirty (30) days notice to the owner to correct any construction defect or complete any improvement, then the Town may, by resolution, declare the owner in Nunn and demand performance by the guarantor or release of funds held by the guarantor to the Town for correction of the construction defect or completion of the project. Subsequent to adopting any resolution finding an owner in Nunn the Town shall have the right to complete the improvements or to contract with third parties for the completion of the required improvements, and to enter upon the premises of the owner for the purpose of constructing, repairing or maintaining the improvements.

- e. If any improvement guarantee is to expire within thirty (30) days and the owner has not completed the improvements and has not provided satisfactory replacement guarantee, the Town may draw on the guarantee and hold such funds in cash as security for performance until the project is complete.