

SUMMIT COUNTY PLANNING DEPARTMENT

CLASS 6 DEVELOPMENT REVIEW PROCESS: BOCC REVIEW AND ACTION.

For the complete Summit County Land Use and Development Code, please refer to the following website:
<http://www.co.summit.co.us/divisions/commdev/planning/DEVCODE/DevCodedisclaim.htm>

General Description: The Class 6 development review process requires that an application be reviewed and acted on by the BOCC.

Applicability: The Class 6 development review process shall be used for those development reviews identified as such in the Code, including but not be limited to, the following types of applications:

- i. General subdivision exemptions as provided for in Section 8400 et seq.
- ii. Alteration or elimination of plat notes as provided by Section 8400 et seq.
- iii. Lot line vacation/adjustment subdivision exemptions as provided for in Section 8400 et seq.
- iv. Lot line vacations as provided for in Section 8400 et seq.
- v. Final plats as provided for in Section 8300 et seq.
- vi. Final rezoning amendments as provided for in Section 12100 et seq.
- vii. Easement vacations as provided for in Section 8400 et seq.
- viii. Minor PUD modifications as provided for in Section 12203 et seq.
- ix. Other development reviews as provided by the Code.

DEVELOPMENT REVIEW PROCEDURES

The following development review procedures shall be used for all classes of development review applications, except where a section of the Code has a unique development review process contained therein. These basic development review procedures shall be used in conjunction with the specific review procedures for each type of application outlined in the Code. Where there is a conflict between the development review procedures and the procedures required under a specific section of the Code, the more restrictive provisions shall be followed. The County has also prepared development review application submittal information packets for each type of development review that summarize the process as required by the provisions of the Code and provide a complete summary of the requirements contained herein.

AUTHORITY TO INITIATE A DEVELOPMENT REVIEW APPLICATION

Any property owner holding title to the land for which an application is proposed or anyone who has written permission from the property owner in a form deemed acceptable by the Planning Department has the ability to submit an application. Special rules apply to submitting an application for a zoning amendment to create a PUD and for PUD modifications. Please refer to Section 12202.03 for the rules that clarify who has the authority to initiate such applications.

STEP 1: REQUIRED PRESUBMITTAL MEETING

The purpose of a presubmittal meeting is to provide an applicant with a list of required submittal information that must be submitted to the Planning Department for a proposed development review application, and to also discuss potential issues associated with such an application prior to it being submitted. During the presubmittal meeting, the Planning Department may provide a non-binding estimated timeline for review that attempts to map out the time of development review based on a “best case” development scenario. Such a timeline is not considered an assurance or affirmative representation of any manner.

- A. Prior to submitting a Class 6 development review application, a presubmittal meeting shall be scheduled with the Planning Department to go over the submittal documents, information and studies as required by the Code. This meeting may, at the discretion of the Planning Department, require a conceptual site plan showing key plan elements (building layout, parking area layout, access, lot layout etc.) or proposed text changes for development review applications involving only text. The applicant will be provided with a development review application submittal information packet and a checklist of submittal requirements at the presubmittal meeting, with the latter outlining the plans and information that must be submitted.

- B. **Waiver of Presubmittal Meeting:** The Planning Department may waive the requirement to hold a presubmittal meeting as required by this section based upon the nature and scope of an application, and upon the experience of the applicant in processing development review applications with Summit County. Notwithstanding the foregoing, a submittal requirement checklist is still required to be filled out by the Planning Department and provided to an applicant and this submittal requirement checklist shall be provided to the Planning Department as a part of the required application.

STEP 2: APPLICATION SUBMITTAL

An application can be submitted to the Planning Department after any required presubmittal meeting. The application shall include all the submittal requirements indicated on the submittal requirement checklist, all applicable fees, required plans and other submittal documents required by the County in accordance with Section 12003. Please refer to the submittal requirements listed in Section 12003 for more information on submittal requirements.

STEP 3: COMPLETENESS CHECK

- A. The Planning Department shall determine whether the application is complete per the requirements of the Code and whether all required materials have been submitted within seven (7) calendar days after an application has been submitted.
- B. **Acceptance of Application:** If the application is complete, it shall be accepted and the formal review process shall begin.
- C. **Advisement of Status of Application:** If the application is not complete, the applicant shall be advised of the specific deficiencies in writing and the review process shall not begin until all the deficiencies are corrected. The Planning Department shall mail, e-mail or fax written notice of either the acceptance of the application or deficiencies of an application at the conclusion of the completeness check deadlines. If the Planning Department does not provide such written notice by the deadlines established under Section 12000.05.B-C, an application shall be processed using the applicable procedures and requirements of the Code. An incomplete application may be sent back to an applicant if an application is not made complete within 21 calendar days of the original submission date.

STEP 4: REFERRAL AND REVIEW PROCESS

- A. The formal review process for an application shall begin with the referral and review process. The referral and review process shall be a twenty one (21) calendar day process commencing on the date an application is determined to be complete in accordance with Section 12000.05 et seq. Referral agency comments shall be forwarded to the applicant when deemed to potentially affect the subject application. The Planning Department's review of the application per the requirements of the Development Code will also occur during the specified referral and/or review period.
- B. **Additional Review Time:** For all classes of development review applications (Class 1-Class 6), the Planning Department has the authority to decide, based on the complexity of a request and staffing demands related thereto, if additional review time is required for the referral and review process. The Planning Department shall mail, e-mail or fax written notice to the applicant if additional time is needed within fourteen (14) calendar days of determining an application is complete as provided for in Section 12000.05 et seq.
- C. The Planning Department shall be responsible for referring applications to the agencies listed below, unless determined by the Planning Department as unnecessary based on the nature of the request. Additional agencies can be selected for referrals depending upon the nature or significance of the request.
- D. If a referral agency fails to respond by the date requested on the referral form, their failure to respond will be interpreted as "no comment". In this case it will be presumed that such referral agency does not have any issues or concerns with an application.
- E. Concerns raised by referral agencies related to specific regulatory requirements shall be considered by the Review Authority in making a decision. Recommendations not related to specific regulatory requirements of an agency can be addressed provided such is within the criteria for decision used by a Review Authority in acting on an application. The following table lists the different classes of applications and the corresponding referral agency, with mandatory referrals as required by State Statutes shown with an "M" next to the "X":

Referral For Each Class of Development Review Application

Referral Agency	Class 2	Class 3	Class 4	Class 5	Class 6
County Engineering Department	X	X	X	X	X
County Open Space & Trails Department	X	X	X	X	X
County Public Health Department	X	X	X	X	X
County Cartographer	X		X	X	X
County Surveyor (Plats only)	X			X	X
County Road & Bridge Department	X		X	X	X
County Assessor	X	X	X	X	X
Applicable Water District	X	X	X	X	X
Applicable Fire District	X	X	X	X	X
Applicable Sewer District	X	X	X	X	X
Summit School District	X	X	X	XM	X
Summit Water Quality Committee	X	X	X	X	X
Qwest (Telecommunications Provider)	X		X	X	X
Xcel or Mountain Parks (Energy Provider)	X		X	X	X
Colorado State Engineer				XM	
Colorado State Forest Service	X		X	X	
Colorado Division of Wildlife		X	X	X	X
Colorado Department of Transportation	X	X	X	X	X
Colorado Geologic Survey				XM	
Colorado Land Use Commission				XM	
Soil Conservation Service				XM	

XM: Mandatory referrals

Other discretionary referral agencies include, but are not limited to: towns within the County, surrounding counties in the Rural Resort Region, Summit Stage, the Summit Housing Authority, the United States Army Corps of Engineers, the United States Environmental Protection Agency and the United States Forest Service.

STEP 5: FOLLOW-UP COMMUNICATION

Within seven (7) calendar days of the completion of the referral and review process, the Planning Department shall provide the applicant with a follow up communication in accordance with the standards as set forth in Section 12000.15 of the Code that summarizes the conclusions of the referral and review process, and, if warranted by the conclusions of the review, may provide guidance and suggestions regarding staff’s analysis of measures necessary to attain compliance with the applicable criteria for decision and requirements of the Code.

1. **Disclaimer:** The Planning Department’s written correspondence to an applicant represents only a review of the application up through the referral and review process. Additional issues may arise due to adjacent property owner concerns and/or additional review or writing of the staff report.
2. **Scheduling Hearing:** If the Planning Department determines that a Class 6 development review application contains sufficient detail to allow a thorough review of the proposal by the Review Authority per the applicable requirements of the Code and the applicable criteria for decision, a public hearing or meeting shall be scheduled in accordance with Section 12000.09.

STEP 6: SUBMITTAL DOCUMENT REVISIONS AND RE-EVALUATION

Submittal Document Revisions:

- A. If the Planning Department determines that submittal document revisions are required or warranted to attain compliance with the applicable criteria for decision and requirements of the Code based on the referral and/or review process, the applicant will be given an opportunity to submit revisions to the submittal documents, and any additional information, necessary to address outstanding issues.
- B. The Planning Department shall have a maximum of fourteen (14) calendar days from the date of re-submission of revised or new submittal documents to evaluate the submitted documents, and complete its review of the same. The Planning Department has the authority to decide, based on the complexity of a request and staffing demands related

thereto, if additional review time is required for the review of the revised or new submittal documents. The Planning Department shall notify the applicant in writing if additional time is needed within seven (7) calendar days of having received revised or new submittal documents.

- C. Within four (4) calendar days of the completion of the reevaluation of new or revised submittal documents, the Planning Department shall provide the applicant with a follow up communication in accordance with the standards as set forth in Section 12000.15 of the Code that summarizes the conclusions of such process, and, if warranted by the conclusions of the review, may provide guidance and suggestions regarding staff's analysis of measures necessary to attain compliance with the applicable criteria for decision and requirements of the Code.

Scheduling Hearing or Meeting:

- B. If the Planning Department determines that a Class 6 development review application is sufficient to allow a thoughtful review of the proposal by the Review Authority per the applicable requirements of the Code and the applicable criteria for decision, a public hearing or meeting (for work sessions) shall be scheduled in accordance with Section 12000.09.
- C. An applicant that contests the need to revise the submittal documents to address the requirements of the Code shall submit a letter that responds to each point in the Planning Department letter within two (2) weeks of the date on the follow up communication letter from the Planning Department. Such letter from the applicant shall also outline why it feels the plans should not be revised or new information submitted, whichever situation applies. If an applicant fails to respond to suggested submittal document revisions or the submission of new information, a development review application shall be scheduled before the Review Authority in accordance with Section 12000.25.

STEP 7: SCHEDULING PUBLIC HEARINGS AND MEETINGS WITH THE REVIEW AUTHORITY

- A. A public hearing for Class 6 development review application shall not be scheduled before the Review Authority until the application is deemed by the Planning Department to be sufficient to allow a thoughtful review of the proposal by the Review Authority per the applicable requirements of the Code and the applicable criteria for decision. It is important to note that some Class 6 development review applications are not public hearings.
- B. A development review application shall be scheduled before the Review Authority at its next meeting where adequate time is available on the agenda to conduct a public meeting or hearing. Notwithstanding the foregoing, scheduling of the public meeting or public hearing, whichever situation applies, shall occur within 60 calendar days after the earlier to occur of: (a) the date an application has been found to meet the applicable requirements of the Code; or (b) the date the County receives a written acknowledgement by the applicant per Section 12000.08.B.2 that it has no intention of making any further modifications to the application and wishes to proceed, even if it implicates a recommendation of denial by the Planning Department.

STEP 8: PUBLIC NOTICING

Notice of a Class 6 development review application shall be in substantial accordance with the requirements of Section 13100 et seq.

STEP 9: PREPARATION OF STAFF REPORT

The Planning Department shall prepare a staff report for the Review Authority for Class 6 development review applications that analyzes the application per the applicable requirements and criteria for decision of the Code.

STEP 10: REVIEW AUTHORITY PUBLIC HEARING OR MEETING

- A. Prior to taking any action on one (1) of the following Class 6 development review applications, the Review Authority shall hold at least one (1) public hearing, duly recorded, for the purpose of considering recommendations from the Planning Department, other agencies and testimony from the applicant and the public:
 - a. Final zoning amendments.
 - b. Final zoning amendments to create a PUD.
 - c. Major PUD modification zoning amendments.
 - d. Minor PUD modifications.

Notice of such public hearings shall be in accordance with Section 13100 et seq.

- B. Other Class 6 Development Reviews:** Other Class 6 development review applications do not require a public hearing and may be listed as either “new business” or “consent agenda” items on the BOCC’s agenda.

STEP 11: ACTION ON A DEVELOPMENT REVIEW APPLICATION

A. The Review Authority that approves a Class 6 development review application shall have the following options for acting on Class 5 development review applications:

- a. Approval: The Review Authority may approve the proposed application if it is found to be in compliance with the applicable requirements and criteria for decision of the Code and the Review Authority makes findings in support of its decision related to such requirements and criteria for decision. In addition, the Review Authority may attach conditions to any approval in accordance with Section 12000.13.D. The BOCC’s approval of a Class 6 development review application shall be made by resolution.
- b. Denial: The Review Authority may deny a proposed application if it is found to not be in compliance with the applicable requirements and criteria for decision of the Code and the Review Authority makes findings in support of its decision to deny an application per the requirements and criteria for decision of the Code. The BOCC’s denial of a Class 6 development review application shall be made by resolution.
- c. Continuance:
 - i. The public hearing or meetings (whichever situation applies) may identify additional issues that relate to applicable requirements or the criteria for decision of the Code and that the applicant may be required by the Review Authority to address such new issues prior to taking formal action. Where submittal document revisions or new information are required by the Review Authority, the Review Authority shall determine at its public hearing or meeting the timeline for submitting such revisions or new information to the Planning Department and continue the public hearing or meeting to a date that provides for proper analysis and the preparation of a new Staff report by the Planning Department.
 - ii. In no event may the Review Authority continue a hearing for more than 40 calendar days unless: 1) agreed to by the applicant and the applicant provides a letter documenting such agreement, or 2) a written, mutually agreeable timeline for review has been accepted by the applicant and the Planning Department. If a hearing is continued, the applicant shall submit, at least 30 calendar days prior to the continued hearing (unless otherwise specified by the Planning Commission provided there is enough time to review the revised plans and prepare a Staff report or memo), any additional required submittal documents or new information to address the Review Authority’s concerns per the applicable requirements and criteria for decision of the Code. Hearings continued to a certain date, time and location do not need to be renoticed per the requirements of Section 13100.
- d. Tabling: The Review Authority may table an application by a motion with the mutual agreement of the applicant for good cause or to allow additional information and materials to be submitted that will allow for a comprehensive review. Tabled applications require renoticing in accordance with Section 13100 prior to recommencing the public hearing process.

B. Conditions of Approval for All Classes of Development Review:

1. The Review Authority may impose or attach any reasonable conditions to the approval of an application to ensure a project will be developed in the manner indicated in the application, and will be in compliance with the standards and criteria established within the Code. Class 4 applications may have not only technical conditions to address specific requirements of the Code, but also may include conditions to ensure an application meets the criteria for decision, mitigates adverse impacts of the use or protects public health, safety and welfare.
2. Conditions shall be tied to the applicable criteria for decision; applicable legal requirements and may consist of one (1) or more, but are not limited to the following:
 - a. Development Schedule: If a development schedule is warranted, the conditions may place a reasonable time limit on any activities associated with the proposed development, or any portion thereof, to prevent speculation in permits, to enable new applications or revisions to come forward for unfeasible developments or to implement other land use policies of the County. If the applicant shows good cause, the County may allow for administrative amendments to any development schedule and the associated Site Plan Improvements Agreement (“SPIA”). Notwithstanding the foregoing, some development schedules are integral to the Review Authority’s approval, and, if the Planning Department determines that is the case with

a proposed amendment to a development schedule, only the Review Authority that took action on the original approval may change such schedule by seeking an amendment to the approved application.

- b. Use: The conditions may restrict the future use of the proposed development to that indicated in the application and other similar uses.
- c. Dedications: The conditions may require conveyances of title or easements to the County, public utilities, a homeowner's association or other appropriate entity for purposes related to the public health, safety and welfare, which may include, but not be limited to, land and/or easements for parks, utilities, pedestrian/bikeways, schools, roads, transportation and other similar uses. The County may also require construction of all facilities to public standards and the dedication of public facilities necessary to serve the development.
- d. Homeowner's Association: A condition may require the creation of a homeowner's association or merchant's association to hold and maintain common property or common improvements.
- e. Construction Guarantees: The conditions may require the depositing of certified funds in an amount to be determined by the County, the depositing of an irrevocable Letter of Credit ("LOC") or the posting of cash to ensure that all construction features required by the Code and conditions of approval are in fact constructed as represented and approved.
- f. Indemnification/Covenants: The conditions may require the recording of covenants and/or deed restrictions on the subject property or the indemnification of the County in certain instances.
- g. Public Improvements: The conditions may require the installation of public improvements or participation in assessment districts for the installation of public improvements within, adjacent or contributing to the project.
- h. Additional Plans: The conditions may require that additional plans or engineered revisions to site, drainage or utility plans be submitted to the County and approved prior to issuance of building permits or issuance of a Certificate of Occupancy ("CO"), whichever is applicable.
- i. Other Conditions: Other conditions that are necessary to ensure that the development is constructed in compliance with applicable County codes and requirements may be placed upon approval of any project.
- j. Conditional and Temporary Use Permit Conditions: Conditional use permits and temporary use permits may also include, but not be limited to, conditions on such items as:
 - i. Performance standards for use.
 - ii. Limitations on hours of operation.
 - iii. Limitations on season of operation.
 - iv. Requirements for Planning Commission review or Planning Department review on periodic basis.
 - v. Mitigation of noise, glare, visual impacts.
 - vi. Mitigation of impacts on wildlife habitat and species.
 - vii. Requirements for licenses or permits.

STEP 12: BOARD OF COUNTY COMMISSIONERS REMAND DUE TO SUBSTANTIAL ALTERATIONS OR FOR CLARIFICATION OF ISSUES

- A. **Remand to a Planning Commission:** When a Planning Commission decision is appealed to the BOCC in accordance with Section 13200 or when the Planning Commission provides a recommendation to the BOCC on a Class 5 development review application, the BOCC may resubmit any substantial alterations to the proposal to the Planning Commission to obtain a recommendation on the alterations or to request a clarification of matters by the Planning Commission, prior to taking action on the appeal or on a Class 5 application, whichever situation applies. This requirement shall not apply to changes that are not so fundamental as to make a material change in the proposal.
- B. **Planning Commission Review Process for Substantial Alterations:** The Planning Commission shall evaluate the substantial alterations resubmitted to it by the BOCC as may be required by this section in a public hearing(s) held by the Planning Commission, which is noticed in accordance with the requirements of a Class 5 application per Section 13100 et seq. The Planning Commission shall have the same options for acting on a remand as provided for under its original review per the provisions of Section 12000.13.C.

STEP 13: NOTICE OF ACTION

- A. Written notice or communication of any matters, as provided for in the Code for any purpose, including without limitation notice of action, and follow up communication on an application and related submittal documents under staff review, shall adhere to the standards as set forth in this section. For such purposes, said notice or communication

may be provided by either surface mail, e-mail, facsimile or other electronic communication, provided that any such electronic delivery shall be followed up with a written correspondence delivered by surface mail. The time period for any such notice process shall be as set forth in the provisions of the Code related to such particular process, and receipt of such notice shall be presumed to be the date of such electronic transmission, or three calendar days from the date of such surface mailing, unless conclusively established to the contrary. Moreover, for the purposes of all such notices as contemplated herein, days shall refer to calendar days unless specifically expressed to the contrary.

- B. The Planning Department shall send written notice of the Review Authority's decision to either approve or deny an application to the applicant within five (5) calendar days after the date action is taken. Notice to the applicant shall include any conditions of approval or findings for denial.

EFFECTIVE DATE AND APPEAL

- A. The BOCC's action on Class 6 applications shall become effective on the date a decision is rendered. Notwithstanding the foregoing, a Class 5 development review application shall not be effective if a condition requires that an applicant complete some requirement(s) (as stated in a resolution) prior to the action becoming effective, such as but not limited to the potential need to acquire development rights or water rights prior to recording a PUD designation (unless otherwise provided for in a PUD designation). The Planning Commission is only a recommending body on such applications, and as such, any recommendation is not appealable. The BOCC's final action on a Class 6 development approval represents the County's final action on a development review application and appeals of such decisions may be filed as provided for by law.
- B. **No Issuance of Permits:** If a decision to approve a development review application is appealed, building or grading permits shall not be issued until the appeal is heard by the Review Authority and the Review Authority takes action to uphold or modify the approval. If the appeal results in a denial of an application, a new and substantially modified application must be submitted if an applicant desires to continue pursuing the development of a property absent a change in the County's development code regulations or master plan policies.

LENGTH OF VALIDITY

Approval of a Class 6 development review application shall lapse after 18 months unless one (1) of the following has occurred:

1. The subdivision exemption plat approved by the BOCC has been recorded (lot split on wells, general exemption, correction plat).
2. The final plat approved by the BOCC has been recorded.
3. The lot line vacation resolution and any required restrictive covenants have been recorded.
4. The final zoning amendment resolution has been recorded.
5. A final zoning amendment to create a PUD resolution and the associated PUD designation have been recorded.
6. The final zoning amendment to modify a PUD (either major or minor PUD modification) resolution and associated PUD designation have been recorded, unless the BOCC approves a modification that does not require a modified PUD to be recorded, and the changes are reflected in the resolution of approval.
7. A site specific development plan or development agreement has been approved as provided in Section 12700 and Section 12800, respectively.

Once one (1) of these actions occurs, the approval shall remain valid for the life of the project unless it is amended or revoked in accordance with the procedures outlined in the Code.

RECORDATION

Class 6 development review applications that are approved or denied by a Review Authority shall be so approved by resolution only and such resolution may be recorded in the Office of the Clerk and Recorder at the discretion of the County Attorney's Office.

REVOCATION

The Planning Department, in consultation with the County Attorney's Office, may initiate the revocation of a Class 6 development review approval for the undeveloped portion of a project if construction has ceased for three (3) years or more, provided that, prior to revocation, the developer shall receive written notice and is given an opportunity for a quasi-

judicial hearing before the Review Authority. Only the BOCC may revoke a Class 6 development review application. Appeals shall be filed, and hearings on appeals conducted, in substantial accordance with Section 13200 et seq.

RENEWAL

Class 6 development review approvals may be granted an administrative renewal by the Planning Department subject to the provisions of Section 12002 et seq.

REVISIONS OR MODIFICATIONS

Certain Class 6 (classes that are final approvals and no additional class of application must be submitted) development review approvals may be granted an administrative revision or modification by the Planning Department subject to the provisions of Section 12001 et seq.

PREEXISTING APPROVALS

- A. A land use legally established prior to the effective date of the Code or prior to any relevant changes shall be permitted to continue, in strict accordance with all standards and requirements of such approval, for the time period specified in the permit or for the time provided by the terms of the Code in effect when the property was developed.
- B. Projects having a valid development review application that were approved prior to the Effective Date of the Code shall be built in accordance with the development regulations and standards in effect at the time of that approval.
- C. Development review application approvals which have expired shall have to resubmit a new development review application following the requirements of the Code, and be subject to the applicable requirements of the Code in effect at the time of submittal or as otherwise provided for by law.

BASIN PLANNING COMMISSION REVIEW AUTHORITY

Class 5 applications that require the review or recommendation by the Planning Commission shall be reviewed by the Planning Commission for the basin where the proposal is located or as provided in Section 12000.24. For a description of the planning basins, please refer to Section 2102 et seq.

TIME LIMITS FOR DEVELOPMENT APPLICATION PROCESSING

- A. Except as provided for in Section 12000.25.B, every development application that is accepted by the Planning Department shall receive a final decision from the BOCC or other final Review Authority within one (1) year from the date such application is filed and accepted by the Planning Department. In the event an applicant does not schedule the application for review as required by the Code, the Planning Department shall schedule the application for review by the appropriate Review Authority and provide notice as required by the Code so that a final decision may be rendered as required by this section.
- B. The Code Administrator may extend the one (1) year review period for any development application as deemed necessary upon a finding that good cause exists for such extension due to: 1) the complexity, size or other extraordinary physical characteristics of the proposed development, or 2) other exceptional circumstances applicable to the particular development application.
- C. The time limit established by this section shall apply to all development review applications provided for in the Code.