



PLANNING COMMISSION WORK SESSION

September 5, 2018 // 5:30 p.m. // First Floor Conference Room
301 Walnut Street, Windsor, CO 80550

GOAL of this Work Session is to have the Planning Commission receive information on topics of Town business from the Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.

Members of the Public in attendance are asked to be recognized by the Chairman before participating in any discussions of the Planning Commission.

Dinner will be served at 5:30 p.m. Meeting will start at 5:45 p.m.

AGENDA

1. Planning Commission Orientation – Presentation by Planning Department staff and Town Attorney followed by Q & A
2. Future Meetings Agenda



MEMORANDUM

Date: September 5, 2018
To: Planning Commission
From: Scott Ballstadt, AICP, Director of Planning
Re: Planning Commission Orientation Overview
Item #: 1

Background / Discussion

The intent of this orientation work session is to review the role of the Planning Commission and provide a general overview of Windsor land use processes.

During the work session, Planning Commission will have the opportunity to ask questions and discuss the various topic areas with staff and the Town Attorney.

Attachments

Presentation slides
Planning Commission bylaws
Land use application flowcharts



Planning Commission Orientation

September 5, 2018

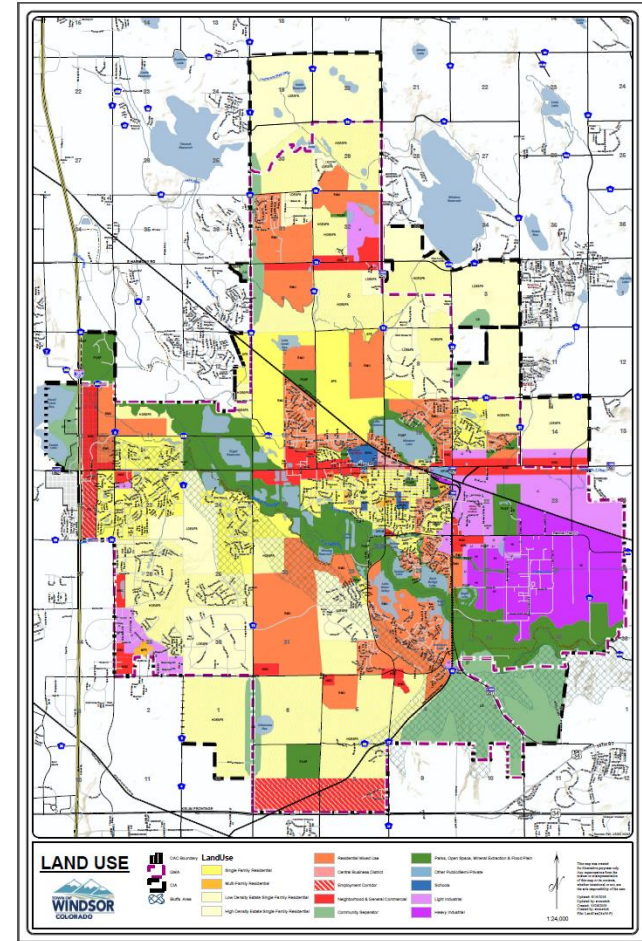


Planning Commission

- C.R.S. § 31-23-202 grants the Town the authority to adopt a plan and create a Planning Commission
- Article X of Windsor's Home Rule Charter gives the Town Board authority to create the Planning Commission and appoint its members
- C.R.S. § 31-23-206 establishes that it is the duty of the Planning Commission to prepare and adopt a master plan, also known as a comprehensive plan, for the physical development of the municipality

Comprehensive Plan

- The Comprehensive Plan outlines the Town's vision for the future and includes goals and objectives that inform decision-making to achieve the vision.
- The Land Use Map is a component of the Comprehensive Plan intended to guide future land use and development decisions as well as provide a framework for future zoning updates and amendments.



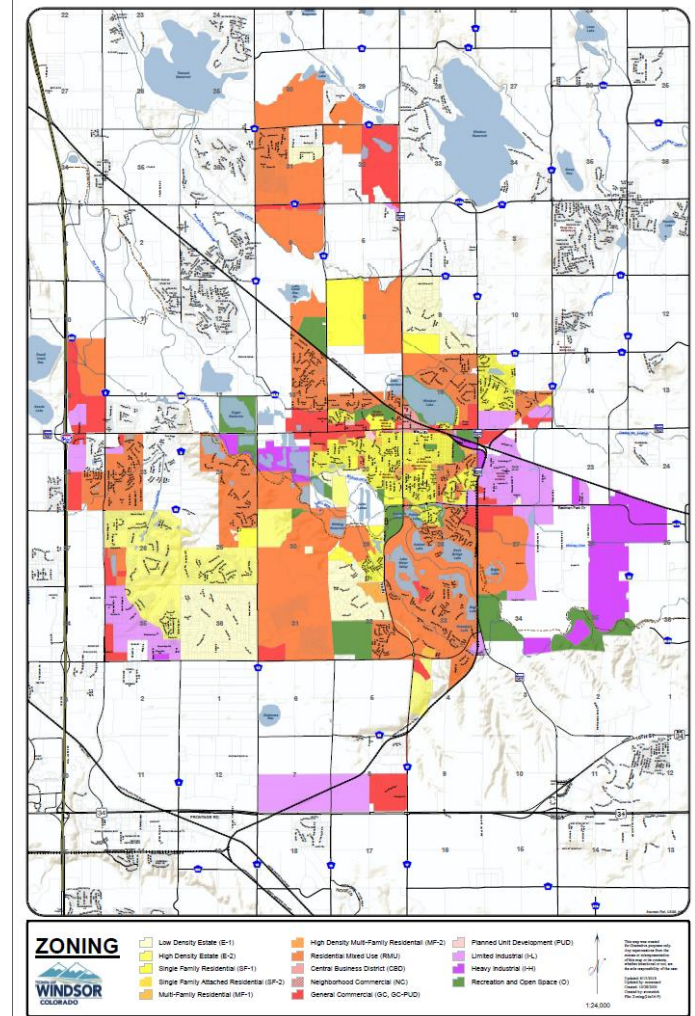


Comprehensive Plan Process

- Town Board appointed a Comprehensive Plan Advisory Committee (CPAC) consisting of 16 community leaders from varied backgrounds to work with Planning Commission and Town Board to develop the current Plan.
- Extensive community outreach was performed, beginning with the consultant conducting stakeholder interviews with focus groups including the school, fire and library districts; residential and commercial/industrial developers; retirees; real estate developers and agents; banking and financial institutions; Windsor Housing Authority; trail representatives; and others.
- The CPAC held multiple community and visioning workshops open to the public, as well as a business workshop for local business owners and managers.
- Town Board members held workshops in each of their respective districts.
- Throughout the process citizens were encouraged to visit the project website to participate through the use of online mapping tools and questionnaires.
- Following a recommendation from Town Board, the Planning Commission adopted the Comprehensive Plan on March 2, 2016.

Land Use Code

- Chapters 15 Annexation, 16 Zoning and 17 Subdivision of the Municipal Code serve as the Town's Land Use Code.
- These chapters contain the land use processes used to implement the Comprehensive Plan and Land Use Map.
- Planning Commission makes recommendations to Town Board based on adopted plans.





Land Use Code

- Annexation
 - Legislative process outlined in state statutes
 - Requires public notice, neighborhood meeting and public hearings
 - Planning Commission recommendation to Town Board
 - Approved by ordinance (two readings at Town Board)
 - Zoning must be established within 90 days
- Master Plan
 - Quasi-judicial process
 - Current code does not require public notice, neighborhood meeting or public hearings
 - Planning Commission recommendation to Town Board
 - Approved by resolution



Land Use Code

- Zoning and Rezoning
 - Quasi-judicial process
 - Requires public notice, neighborhood meeting and public hearings
 - Planning Commission recommendation to Town Board
 - Approved by ordinance (two readings at Town Board)
 - Establishes principal and accessory uses by right on the property
- Conditional Use Grant (CUG)
 - Quasi-judicial process
 - Requires public notice and public hearings
 - CUGs pertaining to oil and gas also require a neighborhood meeting
 - Planning Commission recommendation to Town Board



Land Use Code

- Major Subdivision
 - Quasi-judicial process
 - Requires neighborhood meeting early in process
 - Preliminary approval by Planning Commission (not a formal public hearing)
 - Public notice and formal public hearings required at final approval, followed by Planning Commission recommendation to Town Board
- Minor Subdivision
 - Administrative approval
 - Creation of 2 to 5 parcels
- Lot Line Adjustment
 - Administrative approval
 - Adjusts lot lines between adjoining residential lots without creating a new parcel

Land Use Code

- Standard Site Plan
 - Quasi-judicial process
 - No public hearing required if appropriate zoning is in place
 - Primarily used for review of multi-family residential uses
 - Preliminary approval by Planning Commission
 - Final approval Planning Commission recommendation to Town Board
- Administrative Site Plan
 - Administrative approval
 - Used to amend existing site plans and redevelopment of existing non-residential uses

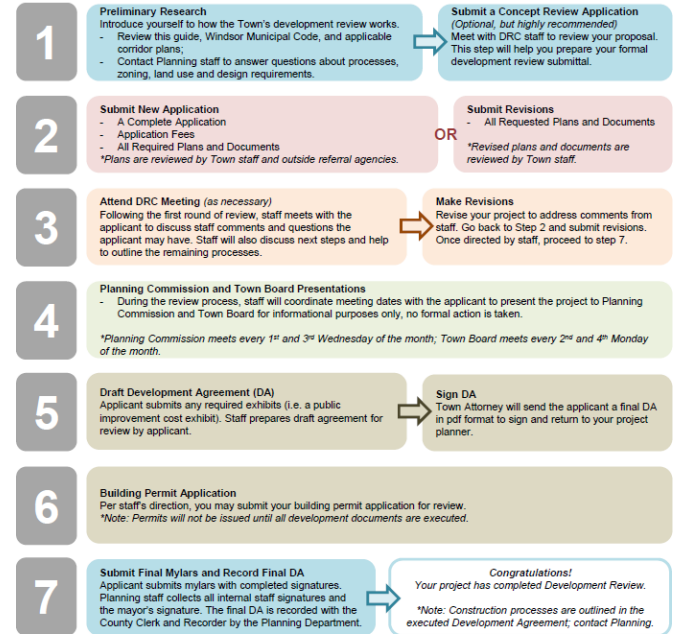


Land Use Code

- Commercial & Industrial Administrative Site Plan
 - Administrative approval with information provided to PC and TB
 - Combines preliminary and final (drawings to include final level detail at initial submittal)
 - Given priority deadlines aka the Fast Track (Ord No. 1997-972)
 - Used for review of commercial and industrial uses



DEVELOPMENT REVIEW GUIDE Qualified Commercial/Industrial Site Plan Applications



ACRONYMS:
DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)
DA – Development Agreement



Intergovernmental Agreements

- The Town has executed intergovernmental agreements (IGAs) with Fort Collins, Loveland, Greeley, Severance, Timnath, Larimer County and Weld County
- Often establishes varying degrees of pre-determined land uses, annexation areas, design criteria and development standards which are agreed upon by the jurisdictions that have common planning areas adjacent to one another
- Approved by resolution



Quasi-Judicial vs Legislative

IT'S LEGISLATIVE IF:

- Broadly-applicable policy - Code amendments, IGA approvals, law of general applicability
- Regulatory policy - conduct in parks and public places, vehicles & traffic, business and commercial regulations
- Establishment of criteria and standards for future application in particular cases - criteria for CUG's, procedures for future decisions



Quasi-Judicial vs Legislative

IT'S QUASI-JUDICIAL IF:

- Law requires adequate notice to the affected community (landowner, neighbors, *et. al.*); and
- Law requires a public hearing, pursuant to notice, at which time interested parties must be given an opportunity to be heard and to present relevant evidence; and
- Law requires that the body make a determination by applying the facts deduced from the public hearing to certain criteria established by law

Quasi-judicial = “Like a judge”



Quasi-Judicial - Due Process

Basic Procedural Requirements:

- Notice
- Opportunity to be heard
- Impartial decision-maker
- Decision based solely on the record (no “*ex parte*” communication)



Quasi-Judicial – Public Hearings

SEQUENCE:

- First, the “evidentiary phase” during which the board receives all evidence upon which the decision will be based
- Second, the “deliberative phase”, during which the board discusses the evidence presented, whether the evidence is persuasive or not
- Lastly, the “verdict”, the point at which the board takes a vote on the questions presented, announces its decision



Quasi-Judicial – Public Hearings

EVIDENTIARY PHASE:

- Staff, applicant and public have an opportunity to present relevant evidence
- Board members ask questions, seek clarification of the criteria and the relevant facts
- Maintain impartiality - ask questions in a neutral, non-judgmental way
- Close the public hearing only after confirming everyone has presented relevant facts, and officials have exhausted all questions - *“Is there anything further before I entertain a motion to close the public hearing?”*

*RE-OPENING THE PUBLIC HEARING IS AN OPTION BEST EXERCISED
INFREQUENTLY*



Quasi-Judicial – Public Hearings

RELEVANCE:

- That which tends to *prove or disprove* something that is material to the outcome
- “Material” = defined by the applicable criteria
- Chair may **exclude** irrelevant evidence - assures the decision is based on the criteria, not something outside the criteria

“COMPETENCE”:

- Competent evidence = reliable evidence - usually based on personal knowledge or personal familiarity with the facts being presented
- Chair may **exclude** hearsay; quotes from documents not presented; presenting documents that cannot be authenticated



Quasi-Judicial - Deliberation

BOARD DISCRETION:

- Weigh the evidence - give the evidence the persuasive power it deserves, based on its source, its internal and external consistency, its logic
- Focus on the criteria - was the record sufficient as to all criteria?
- The number of witnesses alone does not add to or diminish the evidentiary weight it should receive
- Consider the source's means of knowledge, the source's motive and biases
- Disregard irrelevant evidence, disregard incompetent evidence



Quasi-Judicial - Decision

ARRIVE AT A “VERDICT”:

- Chair, call the question in a form that has a “Yes” vote being taken in favor of the application, and “No” vote opposed.
- Chair, announce the results of the vote for the record.
- Chair, authorize staff to finalize the decision in writing as needed.



Quasi-Judicial – Judicial Review

COURTS:

“If the board’s decision is based upon even a **scintilla of competent evidence** presented during the public hearing conducted in accordance with procedural due process, the board’s decision will not be disturbed on judicial review.”

RESULT:

Observe procedural due process - notice, fair opportunity to be heard, impartial decision-maker, decision based only on the record from the public hearing.

Even if the evidence is conflicting or even if it weighs against the decision made, as long **as there is some speck of competent evidence in the record** to support the decision, the courts will not second-guess the board’s decision.



Oil and Gas

- The Municipal Code requires Conditional Use Grant (CUG) approval for all proposed oil and gas wells/pads in Town regardless of zoning
- Given the state preemption of regulating location of oil and gas activities, the Town is limited in what it can and cannot require through the CUG process
- Where local regulation operationally conflicts with state regulation the state regulation prevails
- The Town cannot regulate technical aspects of oil and gas, impact well spacing or location, prohibit that which the state has explicitly authorized, or negate a more specifically drawn statutory provision



Oil and Gas

- Staff met regularly with local operators when activity picked up in 2010-2011
- Standard conditions are applied to CUG approvals with occasional site specific additions/modifications
- Conditions typically attempt to mitigate surface impacts such as truck traffic, noise and aesthetics
- *Martinez vs. Colorado Oil and Gas Conservation Commission* (Colorado Court of Appeals March 23, 2017)



Public Hearings

- The current Municipal Code does not require a public hearing at Planning Commission approval of a preliminary major subdivision plat
- Neighborhood meetings are held early in the process and formal public hearings are held on the same night as formal action
- All public AND Planning Commission comments should take place during the public hearing

**TOWN OF WINDSOR
PLANNING COMMISSION**

RESOLUTION NO. 2010 - 04

**BEING A RESOLUTION REPEALING AND READOPTING THE BYLAWS OF THE
WINDSOR PLANNING COMMISSION**

IT IS HEREBY RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF
WINDSOR, COLORADO, AS FOLLOWS:

1. That the Windsor Planning Commission hereby repeals all previous versions of the Windsor Planning Commission Bylaws, as amended, and readopts the Windsor Planning Commission Amended Bylaws as outlined on Exhibit A, attached hereto and incorporated herein by this reference.
2. That the Windsor Planning Commission hereby authorizes the Chairman of the Windsor Planning Commission to execute this Resolution and the Secretary of the Windsor Planning Commission to attest thereto.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 17th day of November, 2010.

TOWN OF WINDSOR, COLORADO

By: Joe Schick
Chairman

ATTEST:

Paul A. Ehrlich Jr.
Secretary

Exhibit "A"

AMENDED BYLAWS For The Town of Windsor Planning Commission

Article I Introduction

- A. The *Windsor Municipal Code* authorizes the Planning Commission to adopt amended bylaws for the transaction of business.
- B. The within Amended Bylaws have been adopted by the Town of Windsor Planning Commission, and all previously adopted bylaws are deemed repealed.
- C. Pursuant to the *Windsor Municipal Code*, this Commission shall be known as the *Town of Windsor Planning Commission*, hereinafter referred to as "Windsor Planning Commission" or "the Commission."

Article II Membership and Officers

- A. The Windsor Planning Commission shall be composed of members appointed by the Town Board of the Town of Windsor in accordance with the *Windsor Municipal Code*.
- B. The Commission shall elect a chairman, vice chairman, and secretary.
 - 1. The chairman shall preside at all regular and special meetings of the Commission and shall decide all points of procedure.
 - 2. The vice chairman shall assume the duties and responsibilities of the chairman in the chairman's absence.
 - 3. In the absence of the chairman and vice chairman, the election of an acting chair shall be in accordance with the procedures outlined in Section G of Article III of these Amended Bylaws.
 - 4. The secretary shall keep, or cause to be kept, all records of the Commission, and shall transmit all appropriate records to the Town Clerk to become part of the official Town Record.

5. Commission officers shall serve for a term of one (1) year and shall be elected annually at the January meeting of the Commission.
6. Officer vacancies shall be filled at the next regular meeting of the Commission by election of the members. Officers elected to fill vacancies shall serve until the next regular election of officers.
7. In accordance with the terms and conditions outlined in Article IV, Alternate Members, of these bylaws, alternate members may be appointed to serve on the Commission.

Article III Meetings

- A. The chairman shall prepare, or cause to be prepared, an agenda for every regular or special meeting of the Commission.
- B. The Commission shall meet monthly on a date and at a time and location designated by the chairman. These regular meetings may be postponed or rescheduled upon a vote by the Commission. In the event there is not any business scheduled to come before the Commission, the Director of Planning or his or her Designee may cancel the respective meeting and shall in a timely manner provide written notice to the members of the meeting cancellation.
- C. The secretary shall prepare, or cause to be prepared and posted, a notice of each regular or special meeting of the Commission. Such notice shall contain the meeting agenda.
- D. Special meetings may be called by the chairman at the request of two (2) members, provided that notice of same, including a listing of all items to be considered (agenda), is transmitted to each member of the Commission or, as otherwise needed, be delivered to his or her residence at least forty-eight (48) hours prior to the time set for such meeting, and further provided that announcement of a special meeting, or any other meeting at which all members of the Commission are present, shall be sufficient notice of such meeting. Formal action taken at a special meeting called in accordance herewith shall be considered as though it were taken in a regular meeting for those, and only those, matters referred to in the agenda contained in the notice of the meeting.
- E. All meetings of the Commission shall be open to the public.
- F. Quorums.

1. Before official and formal action may be taken on any matter at any meeting of the Commission, a quorum shall be present and in session. Except as set forth in sub-section (2) of this section with respect to amendments of the Windsor Comprehensive Plan, a quorum is defined for purposes of these Bylaws as any four (4) members appointed pursuant to the Windsor Municipal Code.
 2. For any meeting at which any official and formal action may occur with respect to amendments of the Windsor Comprehensive Plan, in accordance with Section 31-23-303, Colorado Revised Statutes, as amended, a quorum for purposes of these Bylaws is defined as any five (5) members appointed pursuant to the Windsor Municipal Code.
- G. In the absence of the chairman, the vice chairman shall call the meeting to order. In the event neither the chairman nor the vice chairman are present, the first order of business shall be the election of an acting chair for the meeting. The secretary shall call the meeting to order, and the acting chair shall be elected by a majority vote of the members in attendance. In the event of a tie vote for the election of the acting chair, the secretary shall appoint the acting chair.
- H. The chairman may from time to time call for work session meetings for the purpose of receiving information, hearing presentations, and discussing information, provided that no formal or informal action is taken.
- I. All voting shall be by roll-call vote, and all official actions of the Commission shall be taken by an affirmative vote of a majority of the members in attendance, except for amendments to the Windsor Comprehensive Plan, which shall require an affirmative vote of no less than five (5) members of the Commission appointed pursuant to the *Windsor Municipal Code*.
- J. The members of the Commission shall be bound by Article V of the Town of Windsor Home Rule Charter, also known as the Town's Ethics Code. A copy of the Town's Ethics Code is attached hereto as the Appendix. Copies of the Town's Ethics Code, and any subsequent amendments thereto, shall be distributed to all current and future members of the Commission.
- K. The order of business for all meetings shall be the order as it appears on the agenda except that the chairman may, under special circumstances, rearrange the order of business unless otherwise directed by a majority of the members there present and in session.
- K. The secretary shall keep, or cause to be kept, minutes and keep the same recorded to date, showing all important facts pertaining to each meeting and hearing, the vote of each regular member upon each matter, or those absent or failing to vote, and such other details as the Commission or its chairman shall direct. The minutes of each meeting shall be approved by

the Commission at its next meeting.

- L. The secretary shall prepare, or cause to be prepared, the transmittal of official and formal actions of the Commission to the Town Manager's office for scheduling before the Windsor Town Board.

Article IV Alternate Members

- A. **Authorization.** The appointment of alternate members to the Commission is authorized and governed by Section 2-1-70 of the *Windsor Municipal Code*, and all subsequent amendments thereto.
- B. **Attendance.** Alternate members shall attend all meetings and/or work sessions except as otherwise specified by the Chair. Alternate members shall receive notification of all meetings and/or work sessions in the same manner as the regular members of the Commission are notified.
- C. **Preparation.** Alternate members shall be provided all materials provided to regular members in anticipation of meetings and/or work sessions. Alternate members shall review all such materials, and shall be prepared to participate at all meetings and/or work sessions.
- D. **Quorums, Vacancies and Recusals.** At the call of the Chairman, alternate members shall be seated as voting members for the following purposes: (1) to achieve a quorum in accordance with Section III. F. above; or (2) having achieved a quorum, one or more regular members are not in attendance at a meeting; or (3) in the event a regular member for any reason (including recusal) is unable to participate in the discussion and voting relative to an official and formal action.
- E. **Voting.** Provided that all requirements for achieving a quorum and the additional criteria described in Section D., Quorums, Vacancies and Recusals, above are met, alternate members shall be accorded a vote upon any matter requiring action by the Commission. In the event a conflict arises as to whether a regular member or an alternate member is to be seated, the regular member in attendance shall be seated and the alternate member shall not be accorded a vote.

Article V Committees

- A. There shall be no standing committees of the Board.

- B. With the consent of the Board, the chairman may appoint *ad hoc* committees of the Commission for special study or review.

Article VI Amendments

These Amended Bylaws may be amended by majority vote of a quorum of members present and in session at any regular meeting, provided that notice in writing has been given to each member at least ten (10) days prior to such meeting, or provided that such amendment was read at the last regular meeting of the Commission.

APPENDIX

ARTICLE V OF THE TOWN OF WINDSOR HOME RULE CHARTER

Code of Ethics

5.1 Purpose

The purpose of this code is to establish guidelines for the ethical standards of conduct for Town officials, public body members and employees. Public servants and volunteers are expected to act in the best interest of the Town. Town officials, public body members and employees are expected to disclose any personal, financial or other interests in matters affecting the Town that come before them for action. Town officials, public body members and employees are expected to recuse themselves from decision making if they have a conflict of interest or even the appearance of one. Town officials, public body members and employees are expected to be independent, impartial, and responsible to their fellow townspeople in their actions. Official decisions and policies will be made following proper channels of town government. Public offices or volunteer positions in our Town will not be used for personal gain. It is important that the public has confidence in the integrity of its government and that town officials, public body members, volunteers and employees have an opportunity to protect their personal reputation. This code establishes a process by which one may obtain guidance regarding potential ethical issues and it establishes a course of action for resolving disputes in a manner that is fair to all of the parties involved.

5.2 Standards

- A. The following requirements shall constitute reasonable standards and guidelines for the ethical conduct of elected or appointed officials, public body members, and employees.
- B. No elected or appointed official, public body member, or employee who has the power or duty to perform, or has any influence over, an official action related to a contract, shall:
 - 1. Have or acquire an interest in a contract between a business entity and the Town, unless the Town's procedures applicable to the solicitation and acceptance of such contract are followed and unless the elected or appointed official, public body member, or employee has complied with the provisions of Article 5.3;
 - 2. Have an interest in any business entity, which is a party to the contract with the Town, unless the elected or appointed official, public body member, or employee has complied with the provisions of Article 5.3;
 - 3. Represent or appear before the Town Board, any public body, or any other elected or appointed official, public body member, or employee, on behalf of any

business entity which is a party to the contract with the Town;

4. Have solicited or accepted present or future employment with any business entity which is a party to a contract with the Town, if the offer or acceptance of such employment is related to or results from any official action performed by the elected or appointed official, public body member, or employee with regard to the contract; or

5. Solicit, accept, or be granted a present or future gift, favor, discount, items of perishable or nonpermanent value, service or thing of value from or for any person involved in the contract. Nothing in this paragraph shall prohibit any elected or appointed official, public body member, or employee from accepting an occasional non-pecuniary gift of an amount to be determined by ordinance, or from accepting an award, publicly presented, in recognition of public service. However, no elected or appointed official, public body member, or employee shall accept a non-pecuniary gift of any value if the gift is or may be in any way associated with a contract that is or may be one for which the elected or appointed official, public body member, or employee has the power or duty to perform an official action.

C. No elected or appointed official, public body member, or employee shall influence or attempt to influence the compensation, benefits, or other terms and conditions of Town office or Town employment applicable to a relative of the elected or appointed official, public body member, or employee.

D. No relative of an elected or appointed official, public body member, or employee shall be hired as a full time, permanent employee unless the Town's personnel procedures applicable to such employment have been followed.

E. No elected or appointed official, public body member, or employee shall use for personal or private gain, or for any other personal or private purposes, any information which is not available to the public and which is obtained by reason of his or her position with the Town, or disclose any such information except as required by law or for Town purposes.

F. No employee shall engage in or accept any employment or service, other than employment by the Town, if such employment or service reasonably would tend to impair the employee's independence of judgment in the performance of the employee's duties. This restriction shall not be construed to prohibit any other restrictions or prohibitions on outside employment applicable to an employee.

G. Neither the Town Manager, nor any employee who is the head of a Town department, shall be appointed to serve as a voting member of a public body, but this does not preclude

town staff from serving in an advisory capacity.

H. No elected or appointed official, public body member, or employee shall request or direct the use of any Town resources for personal or private gain, including work time, except in the same manner and under the same circumstances applicable to any other person. No special consideration, treatment, or advantage beyond that which is available to every other person in similar circumstances or need shall be granted unless such use will substantially benefit the Town.

I. No elected or appointed official, public body member, or employee shall, at any time within two (2) years after termination from the Town:

1. Appear on behalf of the elected or appointed official's, public body member's, or employee's interest, or on behalf of the interest of any other person, before the Town Board, any public body, or department of the Town, in relation to any matter concerning which the elected or appointed official, public body member, or employee performed an official act; or

2. Represent the interest of the elected or appointed official, public body member, or employee, or of any other person, in any other matter before the Town Board, any public body, or department of the Town, without disclosing to the Town the elected or appointed official's, public body member's, or employee's prior relationship to the Town and present relationship to the interest.

J. Except as provided in Subsection K, no elected or appointed official, public body member, or employee shall appear before the Commission or any public body on behalf of any business entity.

K. A member of a public body may appear on behalf of a business entity before the Commission or before a public body other than the public body of which he or she is a member, so long as the appearance does not concern any matter that has or may come before the public body of which he or she is a member.

L. Nothing in the Code of Ethics shall preclude an elected or appointed official, public body member, or employee from appearing before the Town Board, any public body, or any other elected or appointed official, public body member, or employee on behalf of any person which is not a business entity, so long as the appearance does not concern the elected or appointed official's, public body member's, or employee's interest.

M. No elected or appointed official or public body member shall offer or promise to give his or her vote or influence in favor of or against any proposed official action in consideration

or upon condition that any other elected or appointed official, public body member, will promise or assent to give his or her vote or influence in favor of or against any other proposed official action.

N. No elected or appointed official shall become a full-time employee of the Town at any time during the term of office, or for two (2) years after leaving office.

O. No elected or appointed official shall acquire or seek to acquire any real estate or interest therein if the elected or appointed official knows, or reasonably should know, that the Commission is evaluating, proposing, or pursuing the acquisition of such real estate or interest therein. The elected or appointed official's knowledge shall be presumed. The prohibitions of this subsection shall continue to apply until after the Commission has abandoned any effort to acquire such real estate or interest therein, and such abandonment has been reflected in the minutes or other record of a Commission meeting.

5.3 A Duty to Disclose

An official, public body member or employee of the Town of Windsor shall not participate in the conduct of business on behalf of the Town or enter into discussion or deliberation of any matter without first, publicly and on the record, stating all possible conflicts of interest that may exist between themselves and their family members, and the principals or the issue under consideration.

5.4 No Misuse of Confidential Information

No official, public body member or employee of the Town of Windsor shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business. This does not apply to information, which is readily available to the general public. In addition, no official, public body member or employee of the Town of Windsor shall violate the privacy of others by discussing information confidentially acquired in the course of official duties.

5.5 Exclusions

The provisions of this Code of Ethics shall not be interpreted so as to bar:

A. Any official, public body member or employee who is a resident of the Town of Windsor from fully participating in any Town Meeting;

B. Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported in accordance with all local, state and federal laws that pertain to such donations;

C. Participation in a matter that relates to a person or business from which an official, public body member or employee has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;

D. Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments.

5.6 Enforcement

A. The provisions of Articles 5.2 through 5.5 shall be enforced as follows:

1. The Town Attorney shall have the primary responsibility for administration of said provisions.

2. Any person who believes that an elected or appointed official, public body member, or employee has violated any of said provisions and wishes to initiate proceedings on such alleged violations shall file a written complaint with the Town Attorney. The complaint shall state in detail the facts of the alleged violation, shall specify the section or sections of the Code of Ethics alleged to have been violated, and shall contain a sworn or verified statement signed by the complainant and stating under penalty of perjury that the information in the complaint is true and accurate, and that the complaint is filed in good faith and not out of malice or any other improper motive or purpose. Any complaint that does not contain such a signed statement shall be returned forthwith to the complainant without action.

3. If the complaint is made against an officer or public body member, within ten (10) days after receipt of the complaint the Town Attorney shall forward a copy of the complaint to the elected or appointed official or public body member against whom the complaint is made, and to an advisory judge referred to in Article 5.7. The Town Attorney shall request the advisory judge to appoint a qualified disinterested attorney to serve as special prosecutor. If, within ten (10) days after the request, the advisory judge has not appointed a special prosecutor, the Town's Municipal Judge shall appoint a qualified disinterested attorney to serve as special prosecutor. The reasonable expenses and fees of an advisory judge making such an appointment and of the attorney serving as special prosecutor shall be paid by the Town. The attorney recommended or appointed pursuant to this paragraph shall serve as special prosecutor for purposes of investigation and action on the complaint, and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical

responsibilities. Before completing the investigation, the special prosecutor shall provide the elected or appointed official or public body member against whom the complaint is made an opportunity to provide information concerning the complaint.

4. If the complaint is against an employee, the Town Attorney shall investigate the complaint and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical responsibilities. Within ten (10) days after receipt of the complaint the Town Attorney shall forward a copy of the complaint to the employee against whom the complaint is made and, before completing the investigation, shall provide the employee an opportunity to provide information concerning the complaint.

B. A person commits false reporting of a complaint under this Article if:

1. The person makes a complaint of a violation under Articles 5.2 through 5.5 or knowingly causes the transmission of a complaint to the Town Attorney of such a violation when the person knows that the violation did not occur; or

2. The person makes a complaint or knowingly causes the transmission of a complaint to the Town Attorney pretending to furnish information relating to a violation of Articles 5.2 through 5.5 when the person knows that he or she has no such information or knows that the information is false.

C. A person who is convicted of false reporting of a complaint under this article shall be punished as provided in Article 16.5 of this Charter.

5.7 Advisory Opinions

A. The Municipal Judge shall maintain the consent of one (1) or more judges of municipalities other than the Town, to provide advisory opinions with respect to the applicability of Articles 5.2 through 5.6. The names of such advisory judges shall be provided to the Town Board, the Town Manager, and the Town Attorney. The reasonable expenses and fees of an advisory judge providing such an opinion shall be paid by the Town.

B. If any officer, public body member, or employee is uncertain as to the applicability of Articles 5.2 through 5.6 to a particular situation, or as to the definition of terms used in said Articles, the officer, public body member, or employee may apply in writing to the Town Board, Mayor, or Town Manager for an opinion from an advisory judge pursuant to these Articles, and the Town Board, Mayor, or Town Manager may submit an application to the advisory judge for procurement of an opinion. Any officer or public body member may apply

directly to an advisory judge for an opinion. The application shall state in detail the applicable facts and the Article or Articles of the Code of Ethics concerning which the opinion is requested.

C. Any person who requests and acts in accordance with an advisory opinion issued pursuant to this Article shall not be subject to any penalties for such action under the Code of Ethics, unless material facts were omitted or misstated in the request for the advisory opinion.

D. An opinion rendered by an advisory judge pursuant to these Articles shall be disclosed to the public by posting, unless the advisory judge who issued the opinion determines it in the best interest of the Town to delay such posting, in which case the opinion shall be posted as soon as the judge determines that the best interest of the Town will no longer be harmed by public disclosure of the opinion.

5.8 Violations - Injunction

The Town Prosecutor shall have the power and the duty, where a violation of the provisions of the Code of Ethics is threatened or has occurred, to bring a civil action or proceeding at law or in equity for a judgment enjoining any violation of the provisions of the Code of Ethics. Any member of the community shall have the opportunity to submit, in good faith, a sworn statement of any suspected violation of the Charter to the Town Attorney.

5.9 Violations - Voiding of Contract

Any contract that was the subject of any official action of the Town in which there was or is an interest prohibited by the Code of Ethics shall be voidable at the option of the Town, if legally permitted. Where the Town Attorney determines that the public interest may best be served by not voiding such contract, it may be enforced and an action or proceeding may be brought against any elected or appointed official, public body member, or employee in violation of the provisions of the Code of Ethics for damages in an amount not to exceed twice the damages suffered by the Town or twice the profit or gain realized by the elected or appointed official, public body member, or employee, whichever is greater.

5.10 Distribution

The Town Clerk shall cause any forms required for compliance with the Code of Ethics, to be distributed to each elected or appointed official, public body member, and employee of the Town within twenty (20) days after the adoption of the ordinance, and to each elected or appointed official, public body member, and employee elected, appointed, or hired thereafter, before entering into any duties with the Town, and to each candidate for elective office at the time the candidate obtains a nomination petition. In addition, the Town Clerk shall cause a copy of any amendment to the Code of

Ethics to be distributed to each elected or appointed official, public body member, and employee of the Town within twenty (20) days after the enactment of the amendment.



DEVELOPMENT REVIEW GUIDE

Annexation Applications

1

Preliminary Research

Introduce yourself to how the Town's development review works.

- Review this guide, Windsor Municipal Code, and applicable State Statutes;
- Contact Planning staff to answer questions about processes.



Submit a Concept Review Application

(Optional, but highly recommended)
Meet with DRC staff to review your proposal. This step will help you prepare your formal development review submittal.

2

Submit New Application

- A Complete Application
- Application Fees
- All Required Plans and Documents

**Plans cannot be reviewed by Town staff and outside referral agencies until Step 3 is completed, per State Statutes.*

3

Town Board – Resolution Initiating Annexation Proceedings *(per State Statutes)*

The Town Board will review the intent to annex and annexation petition.

**Town Board meets every 2nd and 4th Monday of the month.*

**If the Resolution is approved by the Town Board, proceed to the next step.*

4

Staff Review

- Plans are reviewed by Town staff and outside referral agencies.

OR

Submit Revisions

- All Requested Plans and Documents
- *Revised plans and documents are reviewed by Town staff.*

PLUS

Neighborhood Meeting

Applicant is required to hold a neighborhood meeting.
(neighborhood meeting form)

5

Attend DRC Meeting *(as necessary)*

Following the first round of review, staff meets with the applicant to discuss staff comments and questions the applicant may have. Staff will also discuss next steps and help to outline the remaining processes.



Make Revisions

Revise your project to address comments from staff. Go back to Step 4 and submit revisions. Once directed by staff, proceed to step 7.

6

Draft Development Agreement (DA)

Applicant submits to the Town a legal description exhibit. Staff prepares draft agreement for review by applicant.



Sign DA

Town Attorney will send the applicant a final DA in pdf format to sign and return to the project planner.

7

Town Board – Resolution Establishing Public Hearing Dates

- The Town Board will review the proposed public hearing dates presented by staff.

**If the Resolution is approved by the Town Board, staff will complete notices to taxing entities and publish notice in newspaper; Statute requires a legal ad to run for 4 consecutive weeks, leading up to the public hearings*

**Applicant shall proceed to the next step.*

8

Planning Commission and Town Board Public Hearings and Action

- The Planning Commission will hold a public hearing and provide their recommendation to the Town Board.
- The Town Board will hold a public hearing, take action on the Findings of Fact Resolution, and take action on 1st Reading of the Annexation Ordinance.
- The Town Board will hold a second meeting for 2nd Reading of the Annexation Ordinance, then take action on the Annexation Agreement Resolution.

**Planning Commission meets every 1st and 3rd Wednesday of the month.*

9

Record Final Mylars and DA

Applicant submits mylars with completed signatures. Planning staff collects all internal staff signatures, the mayor's signature and records mylars and the DA with the County Clerk and Recorder after 30 days of Town Board approval, per State Statute..



Congratulations!

Your project has completed Development Review.

**Note: Master Plan, Subdivision and Site Plan Development Review Guides are available on the Town's website; contact Planning.*

ACRONYMS:

DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)
DA – Development Agreement



DEVELOPMENT REVIEW GUIDE

Rezoning Applications

1

Preliminary Research

Introduce yourself to how the Town's development review works.

- Review this guide, Windsor Municipal Code, and applicable corridor plans;
- Contact Planning staff to answer questions about processes, zoning, land use and design requirements.



Submit a Concept Review Application (Optional, but highly recommended)

Meet with DRC staff to review your proposal. This step will help you prepare your formal development review submittal.

2

Submit Application

- A Complete Application
 - Application Fees
 - All Required Plans and Documents
- *Plans are reviewed by Town staff and outside referral agencies.*

OR

Submit Revisions

- All Requested Plans and Documents
- *Revised plans and documents are reviewed by Town staff.*

PLUS

Neighborhood Meeting

Applicant is required to hold a neighborhood meeting 30 days prior to preliminary review by the Planning Commission. (neighborhood meeting form)

3

Attend DRC Meeting (as necessary)

Following the first round of review, staff meets with the applicant to discuss staff comments and questions the applicant may have. Staff will also discuss next steps and help to outline the remaining processes.



Make Revisions

Revise your project to address comments from staff. Go back to Step 2 and submit revisions. Once directed by staff, proceed to the next step.

4

Planning Commission and Town Board Public Hearings and Action

- The Planning Commission will hold a public hearing, followed by their recommendation to the Town Board.
- The Town Board will hold a public hearing, followed by their action. The Town Board may either approve, approve with conditions, or deny the application.

**The Town Board meets every 2nd and 4th Monday of the month.*

5

Submit Final Mylars

Applicant submits mylars with completed signatures. Planning staff collects all internal staff signatures and the mayor's signature.



Congratulations!

Your project has completed Development Review.

**Note: Subdivision and Site Plan Development Review Guides are available on the Town's website; contact Planning.*

ACRONYMS:

DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)
DA – Development Agreement

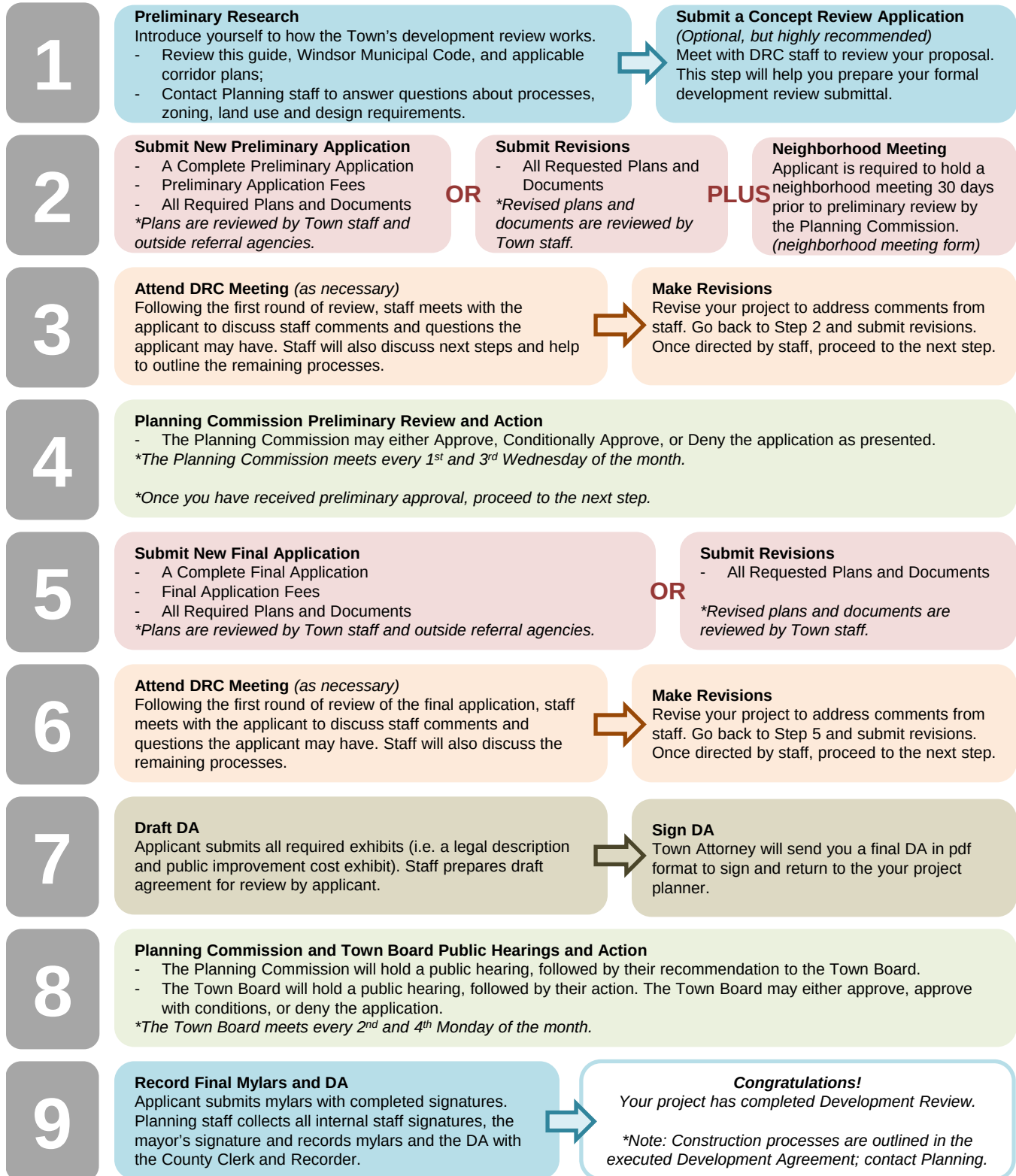
Planning Department

301 Walnut Street | Windsor, Colorado | 80550 | phone 970-674-2415 | fax 970-674-2456 | www.windsorgov.com



DEVELOPMENT REVIEW GUIDE

Major Subdivision Applications



ACRONYMS:

DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)
DA – Development Agreement



DEVELOPMENT REVIEW GUIDE

Administrative Site Plan | Minor Subdivision | Lot Line Adjustment

1

Preliminary Research

Introduce yourself to how the Town's development review works.

- Review this guide, Windsor Municipal Code, and applicable corridor plans;
- Contact Planning staff to answer questions about processes, zoning, land use and design requirements.



Submit a Concept Review Application

(Optional, but highly recommended)

Meet with DRC staff to review your proposal. This step will help you prepare your formal development review submittal.

2

Submit New Application

- A Complete Application
- Application Fees
- All Required Plans and Documents

**Plans are reviewed by Town staff and outside referral agencies.*

OR

Submit Revisions

- All Requested Plans and Documents

**Revised plans and documents are reviewed by Town staff.*

3

Attend DRC Meeting *(as necessary)*

Following the first round of review, staff meets with the applicant to discuss staff comments and questions the applicant may have. Staff will also discuss next steps and help to outline the remaining processes.



Make Revisions

Revise your project to address comments from staff. Go back to Step 2 and submit revisions. Once directed by staff, proceed to the next step.

4

Building Permit Application *(Administrative Site Plan only)*

Per staff's direction, you may submit your building permit application and drawings for review by Fire and Building.

**Note: Permits will not be issued until all development documents are executed.*

5

Submit Final Mylars and Record *(if applicable)*

You submit mylars with completed signatures. Planning staff collects all internal staff signatures, the mayor's signature and records only Minor Subdivision and Lot Line Adjustment mylars with the County.



Congratulations!

Your project has completed Development Review.

**Note: For Building Permit requirements, please contact the Town's Permit Technician.*

ACRONYMS:

DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)

Planning Department

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DEVELOPMENT REVIEW GUIDE

Standard Site Plan Applications



ACRONYMS:

DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)
DA – Development Agreement



DEVELOPMENT REVIEW GUIDE

Qualified Commercial/Industrial Site Plan Applications

1

Preliminary Research

Introduce yourself to how the Town's development review works.

- Review this guide, Windsor Municipal Code, and applicable corridor plans;
- Contact Planning staff to answer questions about processes, zoning, land use and design requirements.



Submit a Concept Review Application

(Optional, but highly recommended)

Meet with DRC staff to review your proposal. This step will help you prepare your formal development review submittal.

2

Submit New Application

- A Complete Application
- Application Fees
- All Required Plans and Documents

**Plans are reviewed by Town staff and outside referral agencies.*

OR

Submit Revisions

- All Requested Plans and Documents

**Revised plans and documents are reviewed by Town staff.*

3

Attend DRC Meeting (as necessary)

Following the first round of review, staff meets with the applicant to discuss staff comments and questions the applicant may have. Staff will also discuss next steps and help to outline the remaining processes.



Make Revisions

Revise your project to address comments from staff. Go back to Step 2 and submit revisions. Once directed by staff, proceed to step 7.

4

Planning Commission and Town Board Presentations

- During the review process, staff will coordinate meeting dates with the applicant to present the project to Planning Commission and Town Board for informational purposes only, no formal action is taken.

**Planning Commission meets every 1st and 3rd Wednesday of the month; Town Board meets every 2nd and 4th Monday of the month.*

5

Draft Development Agreement (DA)

Applicant submits any required exhibits (i.e. a public improvement cost exhibit). Staff prepares draft agreement for review by applicant.



Sign DA

Town Attorney will send the applicant a final DA in pdf format to sign and return to your project planner.

6

Building Permit Application

Per staff's direction, you may submit your building permit application for review.

**Note: Permits will not be issued until all development documents are executed.*

7

Submit Final Mylars and Record Final DA

Applicant submits mylars with completed signatures. Planning staff collects all internal staff signatures and the mayor's signature. The final DA is recorded with the County Clerk and Recorder by the Planning Department.



Congratulations!

Your project has completed Development Review.

**Note: Construction processes are outlined in the executed Development Agreement; contact Planning.*

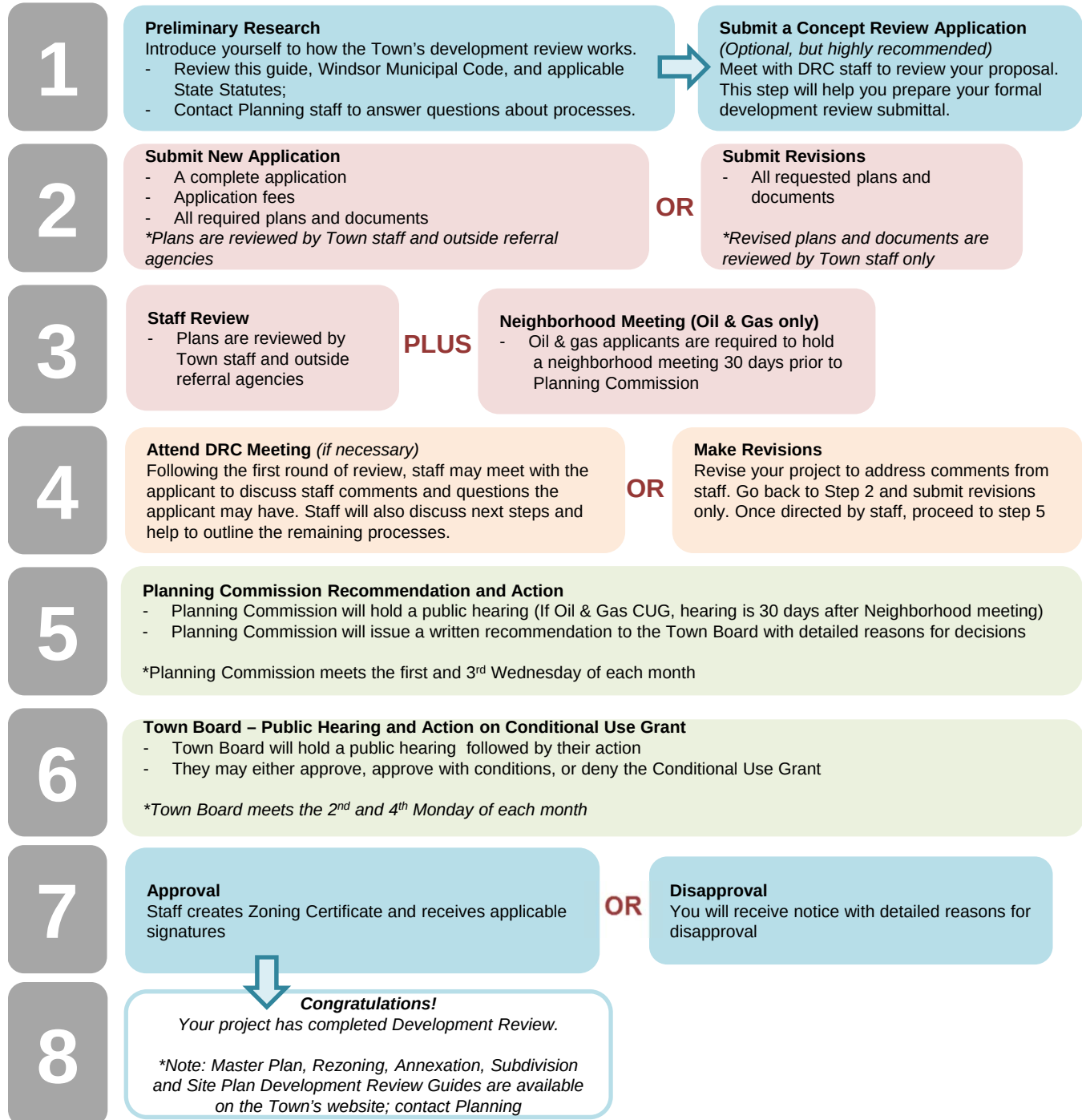
ACRONYMS:

DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)
DA – Development Agreement



DEVELOPMENT REVIEW GUIDE

Conditional Use Grant Applications



ACRONYMS:

DRC – Development Review Committee (staff from Planning, Engineering, Parks, Fire, Building and Economic Development)
DA – Development Agreement