



## Rezoning

### Attachment to Land Use Review Application Form

A rezoning application must meet the basic requirements listed in the city's land use regulations (found in [Section 9-2-19](#)). These requirements are summarized below and are listed on the [Land Use Review Application Form](#). An application fee, as specified on the application form, is also required. In addition, an applicant may submit any additional material which may be appropriate to the review.

All required materials must be included along with a complete form in order for an application to be accepted by the Planning and Development Services Center. Incomplete applications will not be accepted and will be returned to applicant. A rezoning application may be initiated by the City Council, Planning Board, or a person with an ownership interest in the property proposed for rezoning. For owner-initiated rezonings, the owners must consent to the application and sign the application form.

Please use the list below as a checklist, marking those items as they are included in your application. The checklist is intended to assist the applicant in collecting all of the required materials and to assist the Planning and Development Services Center in determining that all of the application requirements are met.

#### ► REZONING APPLICATION REQUIREMENTS

- A complete [Land Use Review Application Form](#), including signature by or the written consent of the owners of all property to be included in the development.
- A completed [sign posting acknowledgement form](#), signed by the applicant, indicating that the applicant understands their responsibility to post a public notice sign on the subject property.
- An **improvement survey** or improvement location certificate by a registered surveyor, of the subject property.
- A **legal description** of the subject property, printed clearly on an 8 ½" x 11" sheet.
- A **vicinity map** (8 ½" x 11") indicating the site and adjacent streets. If the site is less than one acre, the map must be drawn at a minimum of 1": 200'.
- A **written statement** which describes the proposal and addresses how the application meets with rezoning criteria (attached).
- A completed [Land Use Review Project Fact Sheet](#).
- The **rezoning fee**, as stated on the Land Use Review Application Form.
- Any other information that the applicant wishes to submit.

## REZONING CRITERIA

The applicant's written statement for a rezoning application must address how the application meets the criteria below:

### SECTION 9-2-19(e) and (f)

(e) **Criteria:** The city's zoning is the result of a detailed and comprehensive appraisal of the city's present and future land use allocation needs. In order to establish and maintain sound, stable and desirable development within the city, rezoning of land is to be discouraged and allowed only under the limited circumstances herein described. Therefore, the city council shall grant a rezoning application only if the proposed rezoning is consistent with the policies and goals of the Boulder Valley Comprehensive Plan, and, for an application not incidental to a general revision of the zoning map, meets one of the following criteria:

- (1) The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map;
- (2) The existing zoning of the land was the result of clerical error;
- (3) The existing zoning of the land was based on a mistake of fact;
- (4) The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils and inadequate drainage;
- (5) The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area; or
- (6) The proposed rezoning is necessary in order to provide land for a community need that was not anticipated at the time of adoption of the Boulder Valley Comprehensive Plan.

(f) **Additional Criteria for the MU-4, RH-3, RH-6 and RH-7 zoning districts.** In the MU-4, RH-3, RH-6 and RH-7 zoning districts, for an application not incidental to a general revision of the zoning map, the city council shall also find that the rezoning meets the following criteria, in addition to Subsection (e) above:

- (1) Transportation. The land proposed for rezoning is:
  - (A) Subject to a right-of-way plan for the immediate area;
  - (B) The right-of-way plan is capable of being implemented to the extent necessary to serve the property and to connect to the arterial street network through collector and local streets, alleys, multi-use paths and sidewalks concurrent with redevelopment; and
  - (C) The public infrastructure can be paid for by way of redevelopment under the provisions of [Section 9-9-8, "Reservations, Dedication and Improvement of Rights-of-Way,"](#) B.R.C. 1981, without contribution of funds by the city, or that there is a plan for financing and construction that has been approved by city council through the capital improvement program and the city council anticipates appropriating such funds within two years of the rezoning.
- (2) Water, Wastewater and Stormwater Management and Flood Control. The city council shall determine whether there are adequate public facilities available for the rezoning area. The city council shall determine whether there are adequate water, wastewater and stormwater management and flood control facilities by considering the following:
  - (A) Whether the infrastructure meets the requirements of the City of Boulder Design and Construction Standards, adopted city master plans, the Boulder Valley Comprehensive Plan, subcommunity plans and area plans.

- (B) Whether the land proposed to be rezoned has adequate water, wastewater and stormwater management and flood control public facilities that are:
  - (i) In place at the time of the rezoning request;
  - (ii) Under construction and will be available at the time that the impacts of the proposed development will occur; or
  - (iii) Guaranteed by an enforceable development agreement ensuring that the public facilities will be in place at the time that the impacts of the proposed development will occur.
- (C) Whether the property owner has, or will in the future, paid its fair share of the infrastructure needs of the surrounding area, as described in city master plans, subcommunity plans or area plans.
- (3) Travel Demand Management Services. In the MU-4, RH-6 and RH-7 zoning districts, the property subject to the rezoning is located within an area that has parking and transportation related service provided by a general improvement district or an equivalent organization or otherwise meets the trip generation requirements of [Section 9-9-22](#), "Trip Generation Requirements for the MU-4, RH-6 and RH-7 Zoning Districts," B.R.C. 1981.
- (g) Additional Criteria for Land within the East Boulder Subcommunity Plan and 55th and Arapahoe Station Area Plan Boundaries.** In the East Boulder Subcommunity Plan boundary and in the 55th and Arapahoe Station Area Plan boundary, for an application not incidental to a general revision of the zoning map, the city council shall also find, in addition to requirements in Subsection (e) above, that the land use code contains standards necessary to achieve the vision of the East Boulder Subcommunity Plan for the area proposed for rezoning. The intent of this requirement is to ensure that the land use code contains standards that will result in development of the area proposed for rezoning consistent with the vision of the plan, to ensure the rezoning will not otherwise negatively impact the achievement of the vision of the plan, and to not prevent rezoning until all anticipated land use code projects and programs of the plan have been completed. In making this determination, council shall consider, to the extent applicable for the area proposed for rezoning:
  - (1) The ability of the proposed rezoning to achieve the place types and meet the place type performance standards established in the plan,
  - (2) The ability of the proposed rezoning to achieve new and upgraded transportation connections designated in the East Boulder Subcommunity Connections Plan concurrent with development or redevelopment, and
  - (3) Whether the proposed rezoning may impact the city's ability to incentivize the creation of or participation in one or more general improvement districts, or an equivalent organization, proposed in the plan.

## LAND USE REVIEW AND TECHNICAL DOCUMENT REVIEW PROCESS SUMMARY

Planning & Development Services coordinates development reviews through a Land Use Review process. The various review types are listed on the [Land Use Review Application Form](#) and include annexation, site review, use review, form-based code review, and preliminary plat for subdivision. The Land Use Review process is summarized below.

### ► PRE-APPLICATION

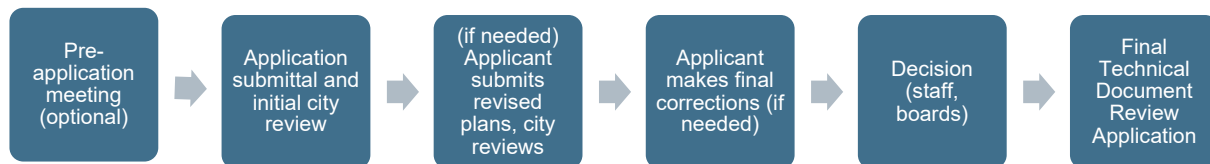
If you are considering filing a development review application, a pre-application review may be beneficial. An interdepartmental city staff team is available to answer questions about applicable regulations, application requirements, and how they may affect a project on a particular site. Many pre-application questions can be answered without need for a meeting. Occasionally, staff will determine that a meeting will be the most effective approach. In most cases, pre-application review is optional; however, there are certain types of projects and reviews for which city staff recommends a pre-application review. A pre-application review and meeting are required before an application for a form-based code review is filed. Please refer to the [Pre-Application Review](#) handout for more information.

### ► APPLICATION

Application forms are due by 10 a.m. on the business day prior to the application deadline to be considered for review on the next available track. Remaining application materials and fees are due by 10 a.m. on the application deadline. Track calendars are available on the [Development Review and Plan Case Applications webpage](#), refer to the LUR Calendar for this application type. Please review the [Development Review Application Guide](#) for instructions on how to submit.

### ► REVIEW SCHEDULE

Each application is assigned to a "track" based on availability of staff resources to conduct the review. The track assigned determines the land use review schedule which the project will follow and helps applicants gauge the time needed to complete the review process. A generalized diagram of the land use review process appears below. Once a review track has been assigned, the city commits to this time schedule, assuming the applicant meets appropriate deadlines. In addition, the schedule may be accelerated, or a project may be placed on a later track based on the applicant's response time, the number of revisions, and staff, Planning Board or City Council work volume.



### ► REVIEWERS

The land use review process includes review by the Development Review Committee (DRC) which is made up of representatives from city departments and other referral agencies. Each representative provides review comments about how the application complies with code and policy requirements within their area of responsibility. When the interests of individual departments diverge, developing consensus is the responsibility of the Policy Resolution Group (PRG), made up of supervisors of Planning and Development Services and the City Attorney's Office.

### ► INITIAL REVIEW AND REVIEW OF REVISED PLANS

Public notice, by mail and posting a sign on the property, occurs during the initial review. The applicant is responsible for posting of a sign that is issued by the Planning and Development Services Center.

During a project's initial review, a summary of the city's findings, a list of requirements and informational comments are identified and given to the applicant in the form of Development Review Results and Comments.

Projects are reviewed for conformance with development standards and requirements and some are evaluated against qualitative design criteria. City comments and/or a decision are issued approximately three weeks after the start of the assigned review track.

Issuance of the Development Review Results and Comments concludes the services covered by the initial application fee. Note that each additional review after the third review may require additional fees based on the application type.

The case manager is available to meet with the applicant to review and discuss the city comments. After considering the issues identified in the initial review, the applicant is given the opportunity to propose revisions. Revisions must be submitted, or a written request for continuance received within 60 days from the date of city comments; otherwise, staff will either take action on the latest plans on file or the application is voided. Revised applications are evaluated by DRC staff members and review of revision comments are issued by the case manager within three weeks after the start of the assigned review track.

### ► DECISIONS/CALL-UPS/APPEALS

Depending on the potential impact, Boulder's land use regulations assign approval authority to either city staff, Planning Board, or both Planning Board and City Council. After the completion of staff review, Planning & Development Services either issues a staff decision or refers the project to the Planning Board or City Council. For site review, use review, form-based code review and subdivision (at final plat review), a "Notice of Disposition" is issued. This is a one or two-page document stating the decision and listing any conditions of approval. These decisions are final after a 14-day "call-up" period. Staff-level decisions may be called up by the Planning Board for a final decision or appealed to the Planning Board by the applicant or any interested person. Planning Board and City Council decisions are also issued as Dispositions.

Several types of Land Use Review applications do not have dispositions issued and follow a slightly different review process at the time of the project decision. For example, out-of-city utility permits are approved by city staff and subject to a call-up by the City Council. Annexations follow a state law approval process, including a recommendation by the Planning Board and approval of an ordinance after two readings by City Council. For additional information on the steps towards a final decision for a particular application type, please refer to the application attachment for the review type in the [Applications and Forms Database](#) or contact Planning and Development Services.

### ► EXPIRATION OF APPROVAL FOR SITE, USE, AND FORM-BASED CODE APPROVALS

For site, use, and form-based code reviews, the applicant must sign a development agreement and file a final approved plan (containing the disposition of the approval) within 90 days. If this is not complied with the approval expires. In some cases, a waiver of this expiration timeline can be requested.

The applicant must also begin and substantially complete the approved project within three years from the date of final approval (or as modified by a specific development schedule). If a project is not completed within three years, or according to the project's approved development schedule, the approval expires. If the project is not completed within this time frame, the applicant may request administrative extension of the development approval. Up to two six-month extensions can be granted by staff. After that, extensions can only be granted by the Planning Board, after a public hearing, and upon a showing by the applicant that reasonable diligence has been exercised to complete the project.

## TECHNICAL DOCUMENT AND PERMIT REVIEW

### ► TECHNICAL DOCUMENT REVIEW AND PERMIT REVIEW

The conditions of approval for most Land Use Review applications will generally require several documents to be prepared, filed and recorded depending on the review type. These may include final plans (architecture, site, landscape), a subdivision final plat and agreement, a development agreement, engineering plans, and dedications of easements or rights-of-way.

For city review and approval of these technical and final documents, the applicant files a [Technical Document Review application](#). The Technical Document Review process (TEC DOC) is similar to Land Use Review (same application deadlines, but no hearings are involved).

### ► PERMIT REVIEW

After the required technical documents have been approved, the applicant may file a building permit application for any new construction. Information on building permits is available on the [Building Permits and Inspections webpage](#). The applicant may also need to obtain other permits or approvals to complete the project, including growth management allocations and floodplain development permits.