

MEMORANDUM

TO: City of Aspen Planning and Zoning Commission

FROM: Jessica Garrow, Long Range Planner
Ben Gagnon, Special Projects Planner
Chris Bendon, Community Development Director

RE: AACP “gap issues” Code Amendments, Continued Public Hearing
Resolution _____, Series 2012

MEETING DATE: January 31, 2012

MEETING PURPOSE:

The Planning and Zoning Commission approved an update to the Aspen Area Community Plan (AACP) in November, 2011. One change in the document related to the authority the document should have in land use case review. Staff recommended, and the P&Z voted, that the document should be “guiding” in nature, meaning that development applications should not be subject to the specific language of the AACP. This direction has also been supported by City Council.

The Planning & Zoning Commission provided feedback on the proposed code amendments to the AACP Review Criteria on January 17, 2012. The public hearing for the code amendments was continued to January 31, 2012. The staff memo and resolution have been updated to reflect the discussion.

BACKGROUND & OVERVIEW:

Since 2000, the P&Z, HPC and City Council have often relied on certain language in the 2000 AACP as part of their review of development applications, often regarding the need for new development to be compatible in mass, scale etc. with the surrounding neighborhood. While the land use code contains similar language/criteria for some review processes, such language/criteria is not included for all types of reviews. These “gaps” in the code have resulted in review boards citing the 2000 AACP to retain authority over “compatibility” and related issues. With the new AACP identified as “guiding” only, staff is recommending inserting “compatibility” language into the land use code where it is not currently present, so that review boards retain the authority they have grown accustomed to, in all type of land use review.

There are currently sixteen (16) review criteria in the Land Use Code that call for general compliance or consistency with the Aspen Area Community Plan. Because the updated AACP is to be used in a guiding capacity, these references need to be amended. Staff proposes replacing these general statements with much more specific review criteria to ensure review boards retain their existing authority. These review criteria are outlined in more detail below.

In addition, staff recommends adding criteria to the Land Use Code related to neighborhood outreach prior to the submission of development applications. Such public outreach is

referenced in the 2000 AACP, and staff believes it is a step that should be part of the regular land use process.

Finally, staff recommends some changes to the review procedures related to Commercial Design Review to ensure review authority is maintained. HPC and P&Z reviewed a code amendment related to this in 2009. P&Z approved Resolution 17, Series of 2009, recommending City Council adopt a code amendment changing the nature of Commercial Design Review and Conceptual HPC Review. This is attached as Exhibit L. Staff is not proposing any changes to this language, but has attached the language to ensure P&Z has an opportunity to review the previously recommended language.

P&Z requested a brief overview of how some past cases have utilized the AACP. Below are three major redevelopment applications from the past few years. The first 2 were ultimately withdrawn, and the third was the subject of litigation. This information was also included in the January 17th packet as Exhibit M.

300 Puppy Smith St, Clark's Market Redevelopment

The applicant came forward with a proposal for a new building on a portion of the existing parking at Clark's Market. A review of the Council meeting minutes from June 9, 2008 indicate that no reference to the AACP specifically was made. City Council, as well as members of the public, raised concerns related to the loss of parking in the proposal. They also expressed interest in a potential Master Plan process for the area. Staff expressed some concerns related to the pedestrian links in the site, and requested additional sidewalks and pedestrian amenity space.

This application was reviewed under the SPA process. Staff primarily used Criteria 1 and 4 to discuss concerns related to pedestrian amenity and pedestrian links – is the development compatible with the area and does the development utilize creative land planning techniques. The AACP review criteria was not the focus of staff's review. A review of the Council meeting minutes indicated the AACP was not cited. The applicant ultimately withdrew the application because they did not believe they could increase the amount of on-site parking given site and lease constraints.

Bidwell/Mountain Plaza Subdivision

The applicant came forward to redevelop the Bidwell Building on the corner of Galena St. and Cooper St. The project was denied by City Council in 2008, but was reconsidered at the applicant's request. At the January 11, 2010 City Council meeting, many of the concerns raised by members of the public and City Council related to construction impacts the redevelopment would have. In addition, some members of the public cited the AACP, and stated they did not feel the project's height, mass, and scale fit in the context of the neighborhood. City Council cited construction impacts, neighborhood character and public amenity space, and the impacts the height and mass of the building would have on views.

The concerns related to construction impacts are addressed in the Subdivision review criteria, not in the AACP. The AACP in general was cited in regard to height, mass, and neighborhood compatibility concerns. No specific quotes were used by City Council or the public.

City Council reviewed the project again on April 26, 2010. Most of the comments from Council and the public were related to mass, scale, and neighborhood compatibility. In addition, there were some requests for additional neighborhood outreach. Councilman Romero stated that the conversion of free-market and commercial space originally proposed to more deed-restricted housing was supportive of the AACP, but he did not cite a specific section of the AACP. Mayor Ireland expressed concerns related to the conversion of commercial space to deed restricted housing because the proposal was for RO units which can be difficult to enforce.

The project was continued to September 27, 2010. The applicant decided to withdraw the application on August 30, 2010.

Wienerstube Redevelopment

The Wienerstube redevelopment proposal went through a number of public hearings with P&Z and City Council. City Council denied the project based on two criteria in the Subdivision Review – consistency with the AACP and the impact the proposal would have future development in the neighborhood. Their comments centered around the bulk, height, size and mass of the project, and its incompatibility with the neighborhood. IN addition, Council cited concerns that the applicant had not conducted neighborhood outreach as required in the AACP.

Following the denial, the applicant sued the city, and the case was decided by District Judge Nichols. Her opinion cited three AACP statements related to neighborhood outreach, mass, scale, and neighborhood compatibility:

- “Ensure the character of the built environment in Aspen is maintained through public outreach and education about quality design, historical context, and the influence of the existing built and natural environments.” (pg 42 of 2000 AACP)
- “The genuine character of our community should be measured by the quality of our human interactions, not by the physical look or man-made artifacts or the magnificent beauties of surrounding nature around us...We must elevate the best interest of people and we must demonstrate our good will toward each other and all comers.” (pg 7-8 of 2000 AACP).
- “Housing should be compatible with the scale and character of the community and should emphasize quality construction and design even though that emphasis necessarily increases costs and lessens production.” (pg 25 of 2000 AACP)

In her opinion, she specifically calls out the first bullet point above as “the only specified provision that could provide the basis for AACP ‘requirements’ as repeatedly stated by the public and City Council” in their review. The court found that this statement was “...a reasonable source for City Council’s understanding that maintaining the character of the existing neighborhood is a goal of the AACP and that reaching out to the public is required to accomplish that goal...”

The court concluded that the first bullet point above “was sufficiently specific so as to permit this Court to review City Council’s decision. This is so primarily because City Council made it very clear exactly what it understood to be required: the proposed project should fit in, and be compatible with, the character of the existing neighborhood so that the existing neighborhood

could be maintained and that the developer should engage in public outreach to accomplish maintaining the character of the existing neighborhood.”

Staff has used the direction provided from the Wienerstube case to inform the AACP gap code amendments. Specifically, staff has proposed language to create a new, specific, requirement for neighborhood outreach as well as adding criteria to SPA, PUD, and Subdivision that require new development be compatible with or enhance the mix of development in the immediate vicinity of the parcel in terms of land use, density, height, bulk, architecture, landscaping and open space, while emphasizing quality construction and design.

CODE AMENDMENT REVIEW PROCEDURES:

The following is the review procedure for amendments to the land use code:

- Pursuant to Land Use Code Section 26.310.040, City Council is the final review authority following a recommendation from the Planning & Zoning Commission for all code amendments.

STAFF COMMENTS:

Each proposed code amendment is outlined below. The amendments have been limited to strictly address maintaining the existing authority the P&Z, HPC, and City Council currently have when reviewing development proposals. The full text of the existing code sections, as well as the proposed redlines, is attached in Exhibits B - K.

The proposed amendments do not address other substantive changes that are called for in the 2011 AACP – a separate P&Z meeting has been scheduled for Feb 7, 2012 to prioritize those potential code amendments, which will be included in Council’s March work session packet.

NEIGHBORHOOD OUTREACH – EXHIBIT B

The 2000 AACP includes language that has been used by City Council to request an applicant conduct enhanced public outreach:

- “The genuine character of our community should be measured by the quality of our human interactions, not by the physical look or man-made artifacts or the magnificent beauties of surrounding nature around us...We must elevate the best interest of people and we must demonstrate our good will toward each other and all comers.” (pg 7-8 of 2000 AACP).
- “...the character of the built environment in Aspen is maintained through public outreach and education about quality design, historical context, and the influence of the existing built and natural environments.” (pg 42 of 2000 AACP)

The court in the Weinerstube case found that these AACP citations could be used to require public outreach beyond typical noticing requirements.

Staff has added a section to the Common Development Review Procedures, section 26.304, to require major projects to conduct a form of enhanced neighborhood outreach. P&Z requested some language changes which have been incorporated:

- All projects that include variances to the height, mass, scale, or setbacks beyond that allowed in underlying zoning, and any project that is subject to a COWOP, PUD, or

Rezoning review are required to conduct neighborhood outreach. There is the ability for staff to require a project deemed to require a significant impact, but which does not meet the above criteria, to conduct public outreach. In addition, there is the ability for staff to exempt a project if it is deemed to be minor in scope. (See Section B, Applicability)

- The ability for staff to highlight specific issues, like transportation or massing, which should be addressed as part of the neighborhood outreach. (See Section C, Appropriate forms of public outreach)
- Noticing requirements have been added to the applicable forms of neighborhood outreach. (See Section C.1-3, forms of public outreach)

In addition, staff has changes any reference to “public outreach” to “neighborhood outreach” to be consistent with the intent of the new requirement.

Exhibit B includes the proposed new section.

AMENDMENTS TO THE LAND USE CODE AND ZONE DISTRICT MAP – EXHIBIT C

The current code requires code changes or rezoning proposals to meet nine review criteria in section 26.310, including the need to be consistent with the AACP. Staff proposed to replace this criterion with the following: “*Whether the proposed amendment furthers an adopted policy, community goal, or objective.*” This language is common in other communities, and reflects the broad-based nature of debate when it comes to code amendments. P&Z requested staff examine the language with the City Attorney to determine if the AACP vision and philosophy could be referenced. While the language can reference the AACP, it would be, in Planning and Attorney staffs’ opinion, an ineffective reference. The P&Z’s language has been added to the Resolution. Staff recommends the language remain as originally suggested.

Code amendments are fundamentally different from reviewing land use cases – they should reflect the overarching community goals and aspirations, which may not be formally adopted. The code amendment process itself enable a broad-based conversation about how our code can implement community priorities, and staff recommends including broad language in this instance.

Based on P&Z feedback, staff has separated the review criteria for rezoning and code amendments. They are two different processes that should gave different review criteria tailored to their unique focuses.

Exhibit C includes the full Review Criteria text as well as the proposed changes.

VARIANCES – EXHIBIT D

Land Use Code section 26.314 includes a provision to enable property owners with a clear hardship to request a variance from underlying dimensional requirements. This ability is required under state and case law. This section on variances currently includes two references to the AACP, which staff proposes eliminating. The aspirational nature of the AACP does not translate well to reviewing on-the-ground dimensional variances. Staff’s experience is that the AACP is not a useful tool in the variance review process. P&Z did not have any changes to the language.

Exhibit D includes the full Review Criteria text as well as the proposed changes.

CONDITIONAL USES – EXHIBIT E

Land Use Code section 26.425 includes six criteria to review applications for Conditional Uses, including one requiring consistency with the AACP. Staff proposes amending this criterion to state: *“The conditional use is consistent with the intent of the Zone District in which it is proposed to be located and complies with all other applicable requirements of this Title.”* When reviewing uses that are appropriate or inappropriate for a specific location, the intent of the zone district, as well as the compatibility of the use with the immediate area (currently a review criteria) inform the review process in a much more meaningful way than consistency with a community plan that is not site-specific. Staff’s experience is that the AACP is not a useful tool in the conditional use review process.

P&Z requested an additional change to Criterion B to state: “The conditional use is consistent and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses ~~or~~ **and** enhances the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development; and”

Exhibit E includes the full Review Criteria text as well as the proposed changes.

ESA – 8040 GREENLINE REVIEW – EXHIBIT F

Any development within 150 feet of the 8040 elevation line is required go through a heightened review with P&Z to ensure it is sensitive to the natural environment and visual quality of the mountainside. One review criteria references the AACP Parks, Recreation, and Trails Plan, which does not exist. Staff received feedback from the Parks Department, and they have an adopted plan containing more specific information than the AACP, which they use to guide their 8040 Greenline referrals. Staff has proposed replacing the AACP reference with the Parks Department plan.

Based on P&Z direction, staff proposes to change the language to refer to any adopted regulatory plans of the Open Space and Trails Board.

Exhibit F includes the full Review Criteria text as well as the proposed changes.

ESA – STREAM MARGIN REVIEW – EXHIBIT F

Any development within 100 feet of the Roaring Fork River is required go through a heightened administrative review with P&Z to ensure it is sensitive to the natural environment and quality of the river. One review criteria references the AACP Parks, Recreation, and Trails Plan, which does not exist. Staff received feedback from the Parks Department, and they have an adopted plan containing more specific information than the AACP, which they use to guide their Stream Margin referrals. Staff has proposed replacing the AACP reference with the Parks Department plan.

Based on P&Z direction, staff proposes to change the language to refer to any adopted regulatory plans of the Open Space and Trails Board.

Exhibit F includes the full Review Criteria text as well as the proposed changes.

SPECIALLY PLANNED AREA (SPA) – EXHIBIT G

SPAs provide flexibility when special circumstances exist on a parcel, and the process requires creative land planning techniques while allowing use and dimensional variations. The first SPA review criteria calls for consideration of “*Whether the proposed development is compatible with or enhances the mix of development in the immediate vicinity of the parcel in terms of land use, density, height, bulk, architecture, landscaping and open space.*” There is also a review criterion requiring consistency with the AACP.

P&Z suggested some changes to the language staff had proposed. The changes are incorporated into the Resolution. Review criterion 1 is changed to eliminate a reference to enhancing the mix of development in the area. Criterion 5 is changed to state: “*Whether the proposed development emphasizes quality construction and design in relation to exterior materials, weathering, snow shedding and storage, and energy efficiency.*” This change strengthens the existing SPA review criteria and reflects how the AACP has been used to review SPAs.

Exhibit G includes the full Review Criteria text as well as the proposed changes.

PLANNED UNIT DEVELOPMENT (PUD) – EXHIBIT H

PUDs provide flexibility in the planning process and encourage flexibility and innovation in development. They allow changes to the underlying dimensional requirements if they will result in greater compatibility with the surrounding land uses and development. The PUD criteria are very detailed, and cover topics ranging from architectural design to transportation to site access. The existing criteria are quite comprehensive, and allow flexibility and discretion in P&Zs and Council’s review. The full review criteria are attached in Exhibit H - some specific sections that address compatibility the neighborhood include Sections 26.445.050 B.1, B.2, C.1, C.2, and E.1.

There is one criterion requiring consistency with the AACP. Staff suggests amending that criterion to reflect the mass and scale criterion in SPA: “*The proposed development shall be compatible with the mix of development in the immediate vicinity of the parcel in terms of density, height, bulk, and architecture.*”

In addition, a criterion to allow changes to the maximum density of a project is included in the PUD section. Staff proposes eliminating the AACP language. In staff’s experience, the general, aspirational language of the AACP does not provide meaningful direction in this instance. Changes based on P&Z direction have been included to reference adopted master plans.

Finally, there are three review criterion related to Architectural character. Staff proposes adding similar language as the SPA change to ensure quality construction and design considerations are included in all PUDs. P&Z requested additional detail for the review criteria. The new criteria states: “*Emphasize quality construction and design in relation to exterior materials, weathering, snow shedding and storage, and energy efficiency.*”

Exhibit H includes the full Review Criteria text as well as the proposed changes.

GROWTH MANAGEMENT – EXHIBIT I

Any project that creates new net livable or net leasable space is required to go through the Growth Management Quota System. There is one criterion requiring consistency with the AACP. In staff’s experience, the AACP has not an effective tool in the GMQS review process. Staff suggests amending that criterion to reflect the fact that the GMQS review is mostly concerned with uses (what goes on inside the building), not mass and scale (what the building looks like). P&Z’s suggested changes are also incorporated: *“The proposed development is compatible with land uses in the surrounding area.”*

In addition, each year City Council meets to discuss if any unused Growth Management allotments should be rolled-over to the next year. One criterion requires consistency with the AACP, which staff proposes to eliminate. The review is a technical accounting review, and the AACP and other adopted area plans do not provide good direction for the review.

Exhibit I includes the full Review Criteria text as well as the proposed changes.

SUBDIVISION – EXHIBIT J

Any project that creates new units of land is required to go through the subdivision process. There is one criteria requiring consistency with the AACP. Staff suggests amending that criterion to reflect the mass and scale criterion in the SPA section: *“The proposed subdivision shall be compatible with the mix of development in the immediate vicinity of the parcel in terms of density, height, bulk, architecture, landscaping and open space.”*

In addition, one criterion allows changes to Engineering standards if the proposed engineering design is compatible with the AACP. Staff proposed eliminating the language. The section has been edited to reflect P&Z’s comments. In addition, Engineering staff recommended adding a reference to the Municipal code, which has been included in the Resolution.

Exhibit J includes the full Review Criteria text as well as the proposed changes.

OFF-STREET PARKING – EXHIBIT K

The off-street parking section of the Land Use Code includes review criteria for commercial parking facilities. One criterion requires that the location, design, and operating characteristics of the facility be consistent with the AACP. Staff recommends eliminating this criteria. In staff’s experience, the general, aspirational language of the AACP does not provide meaningful direction in this instance. Based on P&Z feedback, the language has been amended to require compliance with any applicable adopted regulatory master plan.

Exhibit K includes the full Review Criteria text as well as the proposed changes.

REFERRAL COMMENTS:

Staff requested input from the Parks and Engineering Departments, as certain criterion referenced their plans and work program. Their comments were incorporated into the proposed changes.

RECOMMENDATION:

Staff recommends approval of the proposed code amendments.

RECOMMENDED MOTION:

“I move to approve the AACCP gap code amendments, as outlined in Resolution No. ____, Series of 2012.”

ATTACHMENTS:

EXHIBIT A – Review Criteria and Staff Findings

EXHIBIT B – Neighborhood Outreach

EXHIBIT C – Amendments to the Land Use Code and Zone District Map

EXHIBIT D – Variances

EXHIBIT E – Conditional Uses

EXHIBIT F – ESA – 8040 Greenline Review and Stream Margin Review

EXHIBIT G – Specially Planned Area (SPA)

EXHIBIT H – Planned Unit Development (PUD)

EXHIBIT I – Growth Management

EXHIBIT J – Subdivision

EXHIBIT K - Off-Street Parking

EXHIBIT L – P&Z Resolution 17, Series 2009, Code Amendment on Council Call-Ups (**not included in this packet – was part of the Jan 17th packet**)

EXHIBIT M – Examples of how the AACCP has been used, Clark’s Market, Bidwell, and Weinerstube (**not included in this packet – was part of the Jan 17th packet**)

EXHIBIT N – Public Comment on the proposed code changes (**not included in this packet – was part of the Jan 17th packet**)

RESOLUTION No. ____
(Series of 2012)

**A RESOLUTION OF THE ASPEN PLANNING AND ZONING COMMISSION,
ASPEN, COLORADO, RECOMMENDING CITY COUNCIL ADOPT CODE
AMENDMENTS RELATED TO THE REVIEW CRITERIA REQUIRING
COMPLIANCE WITH THE ASPEN AREA COMMUNITY PLAN (AACP) AND
ADDING NEIGHBORHOOD OUTREACH REQUIREMENTS TO THE LAND USE
CODE:**

**26.304 – COMMON DEVELOPMENT REVIEW PROCEDURES; 26.310.040 AND
26.310.050 – AMENDMENTS TO THE LAND USE CODE AND OFFICIAL ZONE
DISTRICT MAP; 26.314.040 – VARIANCES; 26.425.040 – CONDITIONAL USES;
26.435.030 – DEVELOPMENT IN ENVIRONMENTALLY SENSITIVE AREAS
(ESA), 8040 GREENLINE REVIEW; 26.435.040 – DEVELOPMENT IN
ENVIRONMENTALLY SENSITIVE AREAS (ESA), STREAM MARGIN
REVIEW; 26.440.050 – SPECIALLY PLANNED AREA (SPA); 26.445. –
PLANNED UNIT DEVELOPMENT (PUD); 26.470.030 – GROWTH
MANAGEMENT QUOTA SYSTEM (GMQS); 26.470.050 – GROWTH
MANAGEMENT QUOTA SYSTEM (GMQS); 26.480.050 – SUBDIVISION;
26.515.040 – OFF-STREET PARKING.**

WHEREAS, in accordance with Sections 26.210 and 26.310 of the City of Aspen Land Use Code, the Director of the Community Development Department initiated amendments to the Land Use Code related to compliance with the Aspen Area Community Plan (AACP) and neighborhood outreach to reflect the fact that the 2011/2012 AACP update is being adopted as a guiding document; and,

WHEREAS, pursuant to Section 26.310, applications to amend the text of Title 26 of the Municipal Code shall be reviewed and recommended for approval, approval with conditions, or denial by the Community Development Director and then by the Planning and Zoning Commission at a public hearing. Final action shall be by City Council after reviewing and considering these recommendations; and,

WHEREAS, the Community Development Director has recommended approval of the proposed amendments to the City of Aspen Land Use Code Sections 26.304 – Common Development Review Procedures, 26.310.040 – Amendments to the Land Use Code and Official Zone District Map, 26.314 – Variances, 26.425.040 – Conditional Uses, 26.435.030 – ESA 8040 Greenline Review, 26.435.040 – ESA Stream Margin Review, 26.440.050 – SPA, 26.445 – PUD, 26.470 – Growth Management Quota System (GMQS), 26.480.050 – Subdivision, and 26.515.040 – Off-Street Parking; and,

WHEREAS, during a duly noticed public hearing opened on January 10, 2012 and continued to January 17, 2012, the Planning and Zoning Commission recommended that City Council approve amendments to the text of Sections 26.304 – Common Development Review Procedures, 26.310.040 – Amendments to the Land Use Code and Official Zone District Map, 26.314 – Variances, 26.425.040 – Conditional Uses,

26.435.030 – ESA 8040 Greenline Review, 26.435.040 – ESA Stream Margin Review, 26.440.050 – SPA, 26.445 – PUD, 26.470 – Growth Management Quota System (GMQS), 26.480.050 – Subdivision, and 26.515.040 – Off-Street Parking, as described herein, by a _____ - _____ vote; and,

WHEREAS, the Aspen Planning and Zoning Commission finds that the amendments meet or exceed all applicable standards pursuant to Chapter 26.310 and that the approval of the amendments is consistent with the goals and elements of the Aspen Area Community Plan; and,

WHEREAS, the Aspen Planning and Zoning Commission finds that this Resolution furthers and is necessary for the promotion of public health, safety, and welfare.

WHEREAS, the amendments to the Land Use Code are delineated as follows: Text unaffected is black and in standard print and looks like this. ~~Text being removed is red with strikethrough and looks like this.~~ Text being added to the code is green with underline and looks like this.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF ASPEN, COLORADO THAT:

Section 1: 26.304.020.B – Common Development Review Procedures, Pre-application conference, Issues of discussion, shall be amended as follows:

B. Issues of discussion. Issues that may be discussed at the pre-application conference may include, but are not limited to, the following:

1. Proposed development. The applicant should describe the general nature of the proposed development including, if applicable, proposed land uses and their densities; proposed placement of buildings, structures and other improvements; character and location of common open space or treatment of public uses; preservation of natural features; preservation of properties listed on the Aspen Inventory of Historic Landmark Sites and Structures; protection of environmentally sensitive areas; proposed off-street parking and internal traffic circulation and total ground coverage of paved areas and structures.
2. Review procedure. The Community Development Department staff member shall identify procedural review requirements for the proposed development and applicable review standards and terms of this Title that apply to the review of the proposed development. This should include identifying those stages of the common review procedure which apply, which decision-making body or bodies will review the development application and the approximate length of the development review procedure.
3. Referral agencies. The Community Development Department staff member shall identify the City, State and Federal agencies that are required to review the

proposed development, provide the applicant with persons at these agencies to contact about review procedures and generally describe the information which will be needed to satisfy the concerns of the relevant City, State and Federal agencies.

4. Application contents. The Community Development Department staff member shall establish the contents of the development application required to be submitted for the proposed development. This should include descriptions of the types of reports and drawings required, the general form which the development application should take and the information which should be contained within the application.

5. Application copies and fee. The Community Development Department staff member shall identify the number of copies of the development application that are required to be submitted for the proposed development, along with the amount of the fee needed to defray the cost of processing the application and an estimate of the number of hours of staff review time associated with the fee.

6. Written summary. Following the conclusion of the conference, the applicant shall be presented with a written summary of the meeting. One (1) copy of this written summary should be submitted back to the Community Development Department at the time of submission of the development application.

~~5.7.~~ Neighborhood Outreach. The Community Development Department staff member shall identify if neighborhood outreach, as outlined in Sec 26.304.035, is required prior to submission of the development application.

Section 2: A new section 26.304.035 – Neighborhood Outreach, shall be added as follows:

Sec. 26.304.035. Neighborhood Outreach

A. Purpose. In order to facilitate citizen participation early in the development review process, the City requires development applications to conduct neighborhood outreach. The purpose of the outreach is to inform neighbors and interested members of the public about the project. The applicant must show a concerted effort inform neighbors and the public about the application prior to the first public hearing.

B. Applicability. Neighborhood outreach shall be required for any development proposal that includes variances to the height, mass, scale, or setbacks beyond that allowed in underlying zoning, and any project that is subject to a COWOP, PUD, or Rezoning review, unless the Community Development Department determines as a part of the pre-application conference that the development proposal is limited in nature. In addition, the Community Development Department may make a determination that neighborhood outreach is required for any development proposal that represents significant changes to the mass and scale of the property.

C. Appropriate forms of public outreach. The applicant must choose to do one or more of the following forms of neighborhood outreach. Community Development Department staff may, as part of the pre-application conference, suggest certain forms of neighborhood outreach that would be most appropriate for a development application. In addition, Community Development Department staff may identify specific aspects of the project or potential impacts of the project that should be addressed as part of the neighborhood outreach.

1. Information meeting. The applicant must hold a neighborhood meeting to gain input from neighbors and citizens. The meeting must be open and accessible to the general public and held in a location in proximity to the proposed development or in a publicly accessible building such as City Hall or the Public Library. The applicant or applicant's representative shall attend the neighborhood meeting and be available to answer questions from the public. The applicant shall be responsible for scheduling and coordinating the neighborhood meeting. Renderings, modeling, or other visual representations of the project within its context is required. The applicant must conduct a minimum level noticing, pursuant to Section 26.304.060.E.3.c, to ensure the public is aware of the meeting. Additional noticing beyond that called for in Section 26.304.060.E.3.c may be provided.

2. On-line meeting. The applicant must conduct an on-line meeting to gain input from neighbors and citizens. The meeting must be open to the general public. The applicant or applicant's representative shall attend the on-line meeting and be available to answer questions from the public. The applicant shall be responsible for scheduling and coordinating the on-line forum. Renderings, modeling, or other visual representations of the project within its context is required. The applicant must conduct a minimum level noticing, pursuant to Section 26.304.060.E.3.c, to ensure the public is aware of the on-line meeting. Additional noticing beyond that called for in Section 26.304.060.E.3.c may be provided.

3. Enhanced Public Information. The applicant must provide detailed information on the project in the form of a project website, a detailed public notice mailing, etc. that explains the proposal, outlines the review process, provides visual rendering or maps, or any other information that will describe the project in layman's terms. The applicant shall be responsible for coordinating the information. The applicant must conduct a minimum level noticing, pursuant to Section 26.304.060.E.3.c, to ensure the public is aware of a website, etc. Additional noticing beyond that called for in Section 26.304.060.E.3.c may be provided.

4. Individual Outreach. The applicant must conduct individual or small group meetings with neighbors of the project. The applicant shall be responsible for organizing and attending the meetings. At the meetings, the applicant should

provide a summary of the proposal, including basic use-type information, building height, and renderings.

5. Any other form of neighborhood outreach that will provide neighbors a genuine opportunity to understand the development proposal and provide comments to the application.

F. Summary of Public Outreach. A written summary of the neighborhood outreach, as well as the method of public notification, shall be prepared by the applicant and submitted as part of the official record – either as part of the initial application or as an addendum to the application. Any documentation that was presented to the public as part of the outreach should also be included as part of the official record.

Section 3: 26.310.040 – Amendments to the Land Use Code and Official Zone District Map, Standards of Review, shall be amended as follows:

Sec. 26.310.040. Standards of review for amendments to the land use code.

In reviewing an amendment to the text of this Title ~~or an amendment to the Official Zone District Map~~, the City Council and the Planning and Zoning Commission shall consider:

A. Whether the proposed amendment is in conflict with any applicable portions of this Title.

B. Whether the proposed amendment ~~is consistent with all elements of the Aspen Area Community Plan~~ promotes the vision and philosophy of the Aspen Area Community Plan.

~~**B.** Whether the proposed amendment is compatible with surrounding zone districts and land uses, considering existing land use and neighborhood characteristics.~~

~~**C.** The effect of the proposed amendment on traffic generation and road safety.~~

~~**D.** Whether and the extent to which the proposed amendment would result in demands on public facilities and whether and the extent to which the proposed amendment would exceed the capacity of such public facilities including, but not limited to, transportation facilities, sewage facilities, water supply, parks, drainage, schools and emergency medical facilities.~~

~~**E.** Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment.~~

~~**F.** Whether the proposed amendment is consistent and compatible with the community character in the City.~~

~~**G.** Whether there have been changed conditions affecting the subject parcel or the surrounding neighborhood which support the proposed amendment.~~

H.C. Whether the proposed amendment would be in conflict with the public interest and whether it is in harmony with the purpose and intent of this Title.

Section 4: 26.310.050 – Amendments to the Land Use Code and Official Zone District Map, Reserved, shall be amended as follows:

Sec. 26.310.050. — ~~Reserved~~ Standards of review for amendments to the Official Zone District Map.

In reviewing an amendment to the Official Zone District Map, the City Council and the Planning and Zoning Commission shall consider:

- A. Whether the proposed amendment is in conflict with any applicable portions of this Title.
- B. Whether the proposed amendment is compatible with surrounding zone districts and land uses, considering existing land use and neighborhood characteristics.
- C. The effect of the proposed amendment on traffic generation and road safety.
- D. Whether and the extent to which the proposed amendment would result in demands on public facilities and whether and the extent to which the proposed amendment would exceed the capacity of such public facilities including, but not limited to, transportation facilities, sewage facilities, water supply, parks, drainage, schools and emergency medical facilities.
- E. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment.
- F. Whether the proposed amendment is consistent and compatible with the community character in the City.
- G. Whether there have been changed conditions affecting the subject parcel or the surrounding neighborhood which support the proposed amendment.
- H. Whether the proposed amendment would be in conflict with the public interest and whether it is in harmony with the purpose and intent of this Title.

Section 5: 26.314.040.A – Variances, Standards applicable to variances, shall be amended as follows:

- A.** In order to authorize a variance from the dimensional requirements of Title 26, the appropriate decision-making body shall make a finding that the following three (3) circumstances exist:

1. The grant of variance will be generally consistent with the purposes, goals, objectives and policies of ~~the Aspen Area Community Plan and~~ this Title and the Municipal Code; and
2. The grant of variance is the minimum variance that will make possible the reasonable use of the parcel, building or structure; and
3. Literal interpretation and enforcement of the terms and provisions of this Title would deprive the applicant of rights commonly enjoyed by other parcels in the same zone district and would cause the applicant unnecessary hardship, as distinguished from mere inconvenience. In determining whether an applicant's rights would be deprived, the Board shall consider whether either of the following conditions apply:
 - a. There are special conditions and circumstances which are unique to the parcel, building or structure, which are not applicable to other parcels, structures or buildings in the same zone district and which do not result from the actions of the applicant; or
 - b. Granting the variance will not confer upon the applicant any special privilege denied ~~by the Aspen Area Community Plan and~~ the terms of this Title and the Municipal Code to other parcels, buildings or structures, in the same zone district.

Section 6: 26.425.040 – Conditional Uses, Standards applicable to all conditional uses, shall be amended as follows:

Sec. 26.425.040. Standards applicable to all conditional uses.

When considering a development application for a conditional use, the Planning and Zoning Commission shall consider whether all of the following standards are met, as applicable.

- A.** The conditional use is consistent with the ~~purposes, goals, objectives and standards of the Aspen Area Community Plan, with the~~ intent of the Zone District in which it is proposed to be located and complies with all other applicable requirements of this Title; and
- B.** The conditional use is consistent and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses ~~or~~ and enhances the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development; and
- C.** The location, size, design and operating characteristics of the proposed conditional use minimizes adverse effects, including visual impacts, impacts on pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibrations and odor on surrounding properties; and

D. There are adequate public facilities and services to serve the conditional use including but not limited to roads, potable water, sewer, solid waste, parks, police, fire protection, emergency medical services, hospital and medical services, drainage systems and schools; and

E. The applicant commits to supply affordable housing to meet the incremental need for increased employees generated by the conditional use; and

F. The Community Development Director may recommend and the Planning and Zoning Commission may impose such conditions on a conditional use that are necessary to maintain the integrity of the City's Zone Districts and to ensure the conditional use complies with ~~the purposes of the Aspen Area Community Plan,~~ this Chapter and this Title; is compatible with surrounding land uses; and is served by adequate public facilities. This includes, but is not limited to, imposing conditions on size, bulk, location, open space, landscaping, buffering, lighting, signage, off-street parking and other similar design features, the construction of public facilities to serve the conditional use and limitations on the operating characteristics, hours of operation and duration of the conditional use.

Section 7: 26.435.030.C.11 – 8040 Greenline review standards, shall be amended as follows:

11. The ~~adopted regulatory plans recommendations~~ of the ~~Aspen Area Community Plan: Parks/Recreation/Trails Plan~~ Open Space and Trails Board are implemented in the proposed development, to the greatest extent practical. (Ord. No. 55-2000, § 7)

Section 8: 26.435.040.C.2 – Stream Margin review standards, shall be amended as follows:

2. The ~~adopted regulatory plans recommendations~~ of the ~~Aspen Area Community Plan: Parks/Recreation/Open Space/Trails Plan~~ Open Space and Trails Board and the Roaring Fork River Greenway Plan are implemented in the proposed plan for development, to the greatest extent practicable. Areas of historic public use or access shall be dedicated via a recorded easement for public use. A fisherman's easement granting public fishing access within the high water boundaries of the river course shall be granted via a recorded "Fisherman's Easement;" and

Section 9: 26.440.050.A – Review standards for development in a Specially Planned Area (SPA), General, shall be amended as follows:

A. General. In the review of a development application for a conceptual development plan and a final development plan, the Planning and Zoning Commission and City Council shall consider the following:

1. Whether the proposed development is compatible with or enhances the mix of development in the immediate vicinity of the parcel in terms of land use, density, height, bulk, architecture, landscaping and open space.
2. Whether sufficient public facilities and roads exist to service the proposed development.
3. Whether the parcel proposed for development is generally suitable for development, considering the slope, ground instability and the possibility of mudflow, rock falls, avalanche dangers and flood hazards.
4. Whether the proposed development creatively employs land planning techniques to preserve significant view planes, avoid adverse environmental impacts and provide open space, trails and similar amenities for the users of the project and the public at large.
5. ~~Whether the proposed development is in compliance with the Aspen Area Comprehensive Plan.~~ Whether the proposed development emphasizes quality construction and design in relation to exterior materials, weathering, snow shedding and storage, and energy efficiency.
6. Whether the proposed development will require the expenditure of excessive public funds to provide public facilities for the parcel or the surrounding neighborhood.
7. Whether proposed development on slopes in excess of twenty percent (20%) meet the slope reduction and density requirements of Subsection 26.445.040.B.2.
8. Whether there are sufficient GMQS allotments for the proposed development.

The burden shall rest upon an applicant to demonstrate the general reasonableness and suitability of the proposed development and its conformity to the standards and procedures of this Chapter and Section; provided, however, that in the review of the conceptual development plan, consideration will be given only to the general concept for the development, while during the review of the final development plan, detailed evaluation of the specific aspects of the development will be accomplished.

Section 10: 26.445.020 – PUD Applicability, shall be amended as follows:

Sec. 26.445.020. Applicability.

Before any development shall occur on land designated Planned Unit Development (PUD) on the official zone district map or before development can occur as a PUD, it shall receive final PUD approval pursuant to the terms of this Chapter. However, in no event shall adoption of a final development plan be required for the construction of a single detached- or duplex-residential dwelling on a separate lot, in conformance with the

General Provisions of this Chapter, Section 26.445.040 below. All land with a PUD designation shall also be designated with an underlying zone district designation most appropriate for that land.

A development application for a Planned Unit Development (PUD) may be applied for by the property owners of any proposed development in the City that is on a parcel of land equal to or greater than twenty-seven thousand (27,000) square feet intended for residential, commercial, tourist or other development purposes.

A development application for a Planned Unit Development (PUD) may be applied for by the property owners of any proposed development in the City that is on a parcel of land less than twenty-seven thousand (27,000) square feet intended for multi-family residential, commercial, tourist or other development purposes if, prior to application, the Community Development Director determines the development of the property may have the ability to further the adopted goals of the ~~Aspen Area Community Plan~~ community and that the provisions of the Planned Unit Development land use review process will best serve the interests of the community. By virtue of this determination, the application shall not be granted any special rights or privileges and shall be required to demonstrate compliance with all applicable portions of this Chapter.

If the Community Development Director determines the proposed development is not suitable to be reviewed as a Planned Unit Development, the property owner may appeal the decision to the Planning and Zoning Commission and the Commission, by Resolution and after considering a recommendation made by the Community Development Director, may determine that the development of the property may have the ability to further the adopted goals of the ~~Aspen Area Community Plan~~ community and that the provisions of the Planned Unit Development land use review process will best serve the interests of the community. By virtue of this determination, the application shall not be granted any special rights or privileges and shall be required to demonstrate compliance with all applicable portions of this chapter.

A development application for a Minor Planned Unit Development (Minor PUD) may be applied for by the property owners of a parcel of land located within the Lodge Preservation Overlay (LP) Zone District intended for development consistent with the purpose of the LP Overlay Zone District.

Section 11: 26.445.020.A – PUD, Review standards: conceptual, final, consolidated and minor PUD, General Requirements, shall be amended as follows:

A. General requirements.

1. The proposed development shall be ~~consistent with the Aspen Area Community Plan~~ compatible with the mix of development in the immediate vicinity of the parcel in terms of density, height, bulk, and architecture.
2. The proposed development shall be consistent with the character of existing land uses in the surrounding area.

3. The proposed development shall not adversely affect the future development of the surrounding area.
4. The proposed development has either been granted GMQS allotments, is exempt from GMQS or GMQS allotments are available to accommodate the proposed development and will be considered prior to or in combination with, final PUD development plan review.

Section 12: 26.445.020.B.6.a – PUD, Review standards: conceptual, final, consolidated and minor PUD, Establishment of dimensional requirements, shall be amended as follows:

6. The maximum allowable density within a PUD may be increased if there exists a significant community goal to be achieved through such increase and the development pattern is compatible with its surrounding development patterns and with the site's physical constraints. Specifically, the maximum density of a PUD may be increased if:
 - a) The increase in density serves one or more adopted goals of the community ~~as expressed in the Aspen Area Community Plan (AACP) or a specific area master plan, as applicable,~~ to which the property is subject.

Section 13: 26.445.020.E – PUD, Review standards: conceptual, final, consolidated and minor PUD, Architectural character, shall be amended as follows:

E. Architectural character.

1. Be compatible with or enhance the visual character of the City, appropriately relate to existing and proposed architecture of the property, represent a character suitable for and indicative of the intended use and respect the scale and massing of nearby historical and cultural resources.
2. Incorporate, to the extent practical, natural heating and cooling by taking advantage of the property's solar access, shade and vegetation and by use of non- or less-intensive mechanical systems.
3. Accommodate the storage and shedding of snow, ice and water in a safe and appropriate manner that does not require significant maintenance.
4. Emphasize quality construction and design in relation to exterior materials, weathering, snow shedding and storage, and energy efficiency.

Section 14: 26.445.020.I.4 – PUD, Review standards: conceptual, final, consolidated and minor PUD, Access and circulation, shall be amended as follows:

4. The recommendations of ~~the Aspen Area Community Plan and~~ adopted specific master plans, as applicable, regarding recreational trails, pedestrian and bicycle

paths and transportation are proposed to be implemented in an appropriate manner.

Section 15: 26.470.030.F, GMQS, Aspen metro area development ceilings and annual allotments, shall be amended as follows:

F. Accounting procedure. The Community Development Director shall maintain an ongoing account of available, requested and approved growth management allocations and progress towards each development ceiling. Allotments shall be considered allocated upon issuance of a development order for the project. Unless specifically not deducted from the annual development allotment and development ceilings, all units of growth shall be included in the accounting. Affordable housing units shall be deducted regardless of the unit being provided as growth mitigation or otherwise. After the conclusion of each growth management session and year, the Community Development Director shall prepare a summary of growth allocations.

The City Council, at its first regular meeting of the growth management year, shall review, during a public hearing, the prior year's growth summary, consider a recommendation from the Community Development Director, consider comments from the general public and shall, via adoption of a resolution, establish the number of unused and unclaimed allotments to be carried forward and added to the annual allotment. The City Council may carry forward any portion of the previous year's unused allotment, including all or none.

The City Council shall also consider the remaining development allotments within the development ceilings, established pursuant to Subsection 26.470.030.C, and shall reduce the available development allotment by any amount that exceeds the development ceiling. The public hearing shall be noticed by publication, pursuant to Subparagraph 26.304.060.E.3.a. The City Council shall consider the following criteria in determining the allotments to be carried forward:

- ~~1. The goals and objectives of the Aspen Area Community Plan.~~
21. The community's growth rate over the preceding five-year period.
32. The ability of the community to absorb the growth that could result from a proposed development utilizing accumulated allotments, including issues of scale, infrastructure capacity, construction impacts and community character.
43. The expected impact from approved developments that have obtained allotments, but that have not yet been built.

Section 16: 26.480.050, Subdivision, Review standards, shall be amended as follows:

2. The proposed development is ~~consistent with the Aspen Area Community Plan~~ compatible with land uses in the surrounding area.

Section 17: 26.470.050.B.2, GMQS, General requirements, General requirements, shall be amended as follows:

Sec. 26.480.050. Review standards.

A development application for subdivision review shall comply with the following standards and requirements:

A. General requirements.

1. The proposed subdivision shall be ~~consistent with the Aspen Area Comprehensive Plan~~ compatible with the mix of development in the immediate vicinity of the parcel in terms of density, height, bulk, architecture, landscaping and open space.
2. The proposed subdivision shall be consistent with the character of existing land uses in the area.
3. The proposed subdivision shall not adversely affect the future development of surrounding areas.
4. The proposed subdivision shall be in compliance with all applicable requirements of this Title.

B. Suitability of land for subdivision.

1. A unique situation exists for the development where strict adherence to the subdivision design standards would result in incompatibility with an adopted specific master plan, Title 28, the municipal code, ~~the Aspen Area Comprehensive Plan,~~ the existing, neighboring development areas and/or the goals of the community.
2. Spatial pattern efficient. The proposed subdivision shall not be designed to create spatial patterns that cause inefficiencies, duplication or premature extension of public facilities and unnecessary public costs.

C. Improvements. The improvements set forth at Chapter 26.580 shall be provided for the proposed subdivision. These standards may be varied by special review (See, Chapter 26.430) if the following conditions have been met:

1. A unique situation exists for the development where strict adherence to the subdivision design standards would result in incompatibility with an adopted specific master plan, Title 28, and/or the existing, neighboring development areas and/or the goals of the community.
2. The applicant shall specify each design standard variation requested and provide justification for each variation request, providing design recommendations by professional engineers as necessary.

D. Affordable housing. A subdivision which is comprised of replacement dwelling units shall be required to provide affordable housing in compliance with the requirements

of Chapter 26.520, Replacement housing program. A subdivision which is comprised of new dwelling units shall be required to provide affordable housing in compliance with the requirements of Chapter 26.470, Growth Management Quota System.

E. School land dedication. Compliance with the School land dedication standards set forth at Chapter 26.620.

F. Growth management approval. Subdivision approval may only be granted to applications for which all growth management development allotments have been granted or growth management exemptions have been obtained, pursuant to Chapter 26.470. Subdivision approval may be granted to create a parcel(s) zoned Affordable Housing Planned Unit Development (AH-PUD) without first obtaining growth management approvals if the newly created parcel(s) is required to obtain such growth management approvals prior to development through a legal instrument acceptable to the City Attorney.

Section 18: 26.515.040.B.1, Off-Street Parking Special review standards, shall be amended as follows:

B. A special review to permit a commercial parking facility may be approved, approved with conditions or denied based on conformance with the following criteria:

1. The location, design and operating characteristics of the facility are consistent with ~~the Aspen Area Community Plan~~ an adopted regulatory master plan, as applicable.

FINALLY, adopted and approved by the Planning and Zoning Commission this ___ day of _____, 2012.

APPROVED AS TO FORM:

PLANNING AND ZONING COMMISSION:

James R. True, Special Counsel

LJ Erspamer, P&Z Chairman

ATTEST:

Jackie Lothian, Deputy City Clerk

Exhibit A - Staff Findings

Sec. 26.310.040. Standards of review.

In reviewing an amendment to the text of this Title or an amendment to the Official Zone District Map, the City Council and the Planning and Zoning Commission shall consider:

A. Whether the proposed amendment is in conflict with any applicable portions of this Title.

Staff Finding: The proposed amendments will clarify language in the code. Because the updated Aspen Area Community Plan (AACP) is being adopted as a guiding document, references to the AACP in the Land Use Code in Review Criteria need to be amended. The proposed amendments eliminate out of date language, replace certain references to the AACP with more specific review criteria, and improve to clarity of the code. Staff finds this criterion to be met.

B. Whether the proposed amendment is consistent with all elements of the Aspen Area Community Plan.

Staff Finding: The proposed amendments are intended to better reflect the concepts in the AACP. When reviewing a development proposal, the AACP is used to evaluate the mass, scale, and compatibility of a new building. Instead of referencing the AACP, the proposed amendments create more specific review criteria. Staff finds this criterion to be met.

C. Whether the proposed amendment is compatible with surrounding zone districts and land uses, considering existing land use and neighborhood characteristics.

Staff Finding: Staff finds this criterion is not applicable.

D. The effect of the proposed amendment on traffic generation and road safety.

Staff Finding: Staff finds this criterion is not applicable.

E. Whether and the extent to which the proposed amendment would result in demands on public facilities and whether and the extent to which the proposed amendment would exceed the capacity of such public facilities including, but not limited to, transportation facilities, sewage facilities, water supply, parks, drainage, schools and emergency medical facilities. Staff finds this criterion to be met.

Staff Finding: Staff finds this criterion is not applicable.

F. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment.

Staff Finding: Staff finds this criterion is not applicable.

G. Whether the proposed amendment is consistent and compatible with the community character in the City.

Staff Finding: The proposed amendments are intended to better reflect the concepts in the AACP, which include direction that development should be consistent and compatible with the community. When reviewing a development proposal, the AACP is used to evaluate the mass, scale, and compatibility of a new building. Instead of referencing the AACP, the proposed amendments create more specific review criteria, including changes that more specifically require development to be compatible with the community. Staff finds this criterion to be met.

H. Whether there have been changed conditions affecting the subject parcel or the surrounding neighborhood which support the proposed amendment.

Staff Finding: The updated AACP is being adopted as a guiding document, requiring all references to the AACP in Review Criteria to be removed. Staff finds this criterion to be met.

I. Whether the proposed amendment would be in conflict with the public interest and whether it is in harmony with the purpose and intent of this Title.

Staff Finding: The updated AACP is being adopted as a guiding document, requiring all references to the AACP in Review Criteria to be removed. Staff finds this criterion to be met.

Chapter 26.304
COMMON DEVELOPMENT REVIEW PROCEDURES

Sections:

Sec. 26.304.010	General
Sec. 26.304.020	Pre-application conference
Sec. 26.304.030	Application and fees
<u>Sec. 26.304.035</u>	<u>Neighborhood Outreach</u>
Sec. 26.304.040	Initiation of application for development order
Sec. 26.304.050	Determination of completeness and review by the Community Development Director
Sec. 26.304.060	Review of a development application by decision-making bodies
Sec. 26.304.070	Development orders
Sec. 26.304.075	Building permit

Sec. 26.304.020. Pre-application conference.

A. General. Prior to the formal filing of a development application, unless waived by the Community Development Director, the applicant shall confer with a member of the staff of the Community Development Department to obtain information and guidance regarding the format and processing of the development application. The purpose of such a conference is to permit the applicant and the Community Development Department staff to review informally a proposed development and determine the most efficient method of development review before substantial commitments of time and money are made in the submission of an application. The Community Development Director may decide as part of the pre-application process to hold pre-application work sessions with decision-making bodies if it is determined that such work sessions would provide the Community Development Department or the applicant with additional information or guidance necessary to the preparation or processing of an application for development.

B. Issues of discussion. Issues that may be discussed at the pre-application conference may include, but are not limited to, the following:

1. Proposed development. The applicant should describe the general nature of the proposed development including, if applicable, proposed land uses and their densities; proposed placement of buildings, structures and other improvements; character and location of common open space or treatment of public uses; preservation of natural features; preservation of properties listed on the Aspen Inventory of Historic Landmark Sites and Structures; protection of environmentally sensitive areas; proposed off-street parking and internal traffic circulation and total ground coverage of paved areas and structures.
2. Review procedure. The Community Development Department staff member shall identify procedural review requirements for the proposed development and applicable review standards and terms of this Title that apply to the review of the proposed development. This should include identifying those stages of the common review procedure which apply, which decision-making body or bodies will review the

development application and the approximate length of the development review procedure.

3. Referral agencies. The Community Development Department staff member shall identify the City, State and Federal agencies that are required to review the proposed development, provide the applicant with persons at these agencies to contact about review procedures and generally describe the information which will be needed to satisfy the concerns of the relevant City, State and Federal agencies.
4. Application contents. The Community Development Department staff member shall establish the contents of the development application required to be submitted for the proposed development. This should include descriptions of the types of reports and drawings required, the general form which the development application should take and the information which should be contained within the application.
5. Application copies and fee. The Community Development Department staff member shall identify the number of copies of the development application that are required to be submitted for the proposed development, along with the amount of the fee needed to defray the cost of processing the application and an estimate of the number of hours of staff review time associated with the fee.
6. Written summary. Following the conclusion of the conference, the applicant shall be presented with a written summary of the meeting. One (1) copy of this written summary should be submitted back to the Community Development Department at the time of submission of the development application. (Ord. No. 1-2002, § 5 [part])
- ~~6.7.~~ Neighborhood Outreach. The Community Development Department staff member shall identify if neighborhood outreach, as outlined in Sec 26.304.035, is required prior to submission of the development application.

Sec. 26.304.035. Neighborhood Outreach

A. Purpose. In order to facilitate citizen participation early in the development review process, the City requires development applications to conduct neighborhood outreach. The purpose of the outreach is to inform neighbors and interested members of the public about the project. The applicant must show a concerted effort inform neighbors and the public about the application prior to the first public hearing.

B. Applicability. Neighborhood outreach shall be required for any development proposal that includes variances to the height, mass, scale, or setbacks beyond that allowed in underlying zoning, and any project that is subject to a COWOP, PUD, or Rezoning review, unless the Community Development Department determines as a part of the pre-application conference that the development proposal is limited in nature. In addition, the Community Development Department may make a determination that neighborhood outreach is required for any development proposal that represents significant changes to the mass and scale of the property.

C. Appropriate forms of public outreach. The applicant must choose to do one or more of the following forms of neighborhood outreach. Community Development Department staff may, as part of the pre-application conference, suggest certain forms of neighborhood outreach that would be most appropriate for a development application. In addition, Community Development Department staff may identify specific aspects of the project or potential impacts of the project that should be addressed as part of the neighborhood outreach.

1. Information meeting. The applicant must hold a neighborhood meeting to gain input from neighbors and citizens. The meeting must be open and accessible to the general public and held in a location in proximity to the proposed development or in a publicly accessible building such as City Hall or the Public Library. The applicant or applicant's representative shall attend the neighborhood meeting and be available to answer questions from the public. The applicant shall be responsible for scheduling and coordinating the neighborhood meeting. Renderings, modeling, or other visual representations of the project within its context is required. The applicant must conduct a minimum level noticing, pursuant to Section 26.304.060.E.3.c, to ensure the public is aware of the meeting. Additional noticing beyond that called for in Section 26.304.060.E.3.c may be provided.

2. On-line meeting. The applicant must conduct an on-line meeting to gain input from neighbors and citizens. The meeting must be open to the general public. The applicant or applicant's representative shall attend the on-line meeting and be available to answer questions from the public. The applicant shall be responsible for scheduling and coordinating the on-line forum. Renderings, modeling, or other visual representations of the project within its context is required. The applicant must conduct a minimum level noticing, pursuant to Section 26.304.060.E.3.c, to ensure the public is aware of the on-line meeting. Additional noticing beyond that called for in Section 26.304.060.E.3.c may be provided.

3. Enhanced Public Information. The applicant must provide detailed information on the project in the form of a project website, a detailed public notice mailing, etc. that explains the proposal, outlines the review process, provides visual rendering or maps, or any other information that will describe the project in layman's terms. The applicant shall be responsible for coordinating the information. The applicant must conduct a minimum level noticing, pursuant to Section 26.304.060.E.3.c, to ensure the public is aware of a website, etc. Additional noticing beyond that called for in Section 26.304.060.E.3.c may be provided.

4. Individual Outreach. The applicant must conduct individual or small group meetings with neighbors of the project. The applicant shall be responsible for organizing and attending the meetings. At the meetings, the applicant should provide a summary of the proposal, including basic use-type information, building height, and renderings.

5. Any other form of neighborhood outreach that will provide neighbors a genuine opportunity to understand the development proposal and provide comments to the application.

F. Summary of Public Outreach. A written summary of the neighborhood outreach, as well as the method of public notification, shall be prepared by the applicant and submitted as part of the official record – either as part of the initial application or as an addendum to the application. Any documentation that was presented to the public as part of the outreach should also be included as part of the official record.

Sec. 26.304.060. Review of a development application by decision-making bodies.

E. Public notice.

1. General. Whenever a notice of a public hearing is required, notice shall be provided to the public, pursuant to the terms of this Section.
2. Content of notice. Every notice shall include the name and address of the applicant, the type of development application sought, date, time and place of the hearing, the address and legal description of the subject property if applicable, a summary of the development application under consideration and identification of the decision-making body conducting the hearing and such other information as may be required to fully apprise the public of the nature of the application.
3. Manner of notice. Every notice shall be given in one (1) or more of the following manners, as specified in this Title for each type of development:
 - a. Publication of notice. Publication of notice shall be provided by the applicant or the Community Development Department at least fifteen (15) days prior to the public hearing through publication in the legal notice section of an official paper or a paper of general circulation in the City.
 - b. Posting of notice. Posting of notice shall be made by the applicant, who shall obtain a copy of the form from the Community Development Department. The notice shall be posted at least fifteen (15) days prior to the public hearing, by posting a sign in a conspicuous place on the property subject to the development application. The sign shall be made of suitable, waterproof materials, shall be not less than twenty-two (22) inches wide and twenty-six (26) inches high and shall be composed of letters not less than one (1) inch in height.
 - c. Mailing of notice. Mailing of notice shall be made by the applicant, who shall obtain a copy of the notice from the Community Development Department. The mailing shall contain that information described in Paragraph E.2 above. At least fifteen (15) days prior to the public hearing, notice shall be sent by first class, postage prepaid U.S. mail or hand delivered, to all owners of property within three hundred (300) feet of the property subject to the development application. The names and addresses of

property owners shall be those on the current tax records of Pitkin County as they appeared no more than sixty (60) days prior to the date of the public hearing.

- d. Rezoning or text amendment. Whenever the Official Zoning District Map is in any way to be changed or amended incidental to or as part of a general revision of this Title or whenever the text of this Title is to be amended, whether such revision be made by repeal of this Title and enactment of a new land use regulation or otherwise, the requirement of an accurate survey map or other sufficient legal description of and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the planning agency during all business hours for fifteen (15) days prior to the public hearing on such amendments.
- e. Notice to mineral estate owner. An applicant for surface development shall notify affected mineral estate owners by at least thirty (30) days prior to the date scheduled for the initial public hearing on the application for development. The applicant shall certify that notice has been provided to the mineral estate owner.

Chapter 26.310

AMENDMENTS TO THE LAND USE CODE AND OFFICIAL ZONE DISTRICT MAP

Sec. 26.310.010	Purpose
Sec. 26.310.020	Procedure for amendment
Sec. 26.310.030	Application
Sec. 26.310.040	Standards of review
Sec. 26.310.050	Temporary suspension of building permits—pending ordinance
Sec. 26.310.060	Notation of Planning and Zoning Commission resolution on Official Zone District Map
Sec. 26.310.070	Recordation of designation
Sec. 26.310.080	Placement on City's Official Zone District Map
Sec. 26.310.085	Disputes about zoning of a property
Sec. 26.310.090	Time limitations

Sec. 26.310.040. Standards of review for amendments to the land use code.

In reviewing an amendment to the text of this Title ~~or an amendment to the Official Zone District Map~~, the City Council and the Planning and Zoning Commission shall consider:

A. Whether the proposed amendment is in conflict with any applicable portions of this Title.

B. Whether the proposed amendment ~~is consistent with all elements of the Aspen Area Community Plan~~ promotes the vision and philosophy of the Aspen Area Community Plan.

B.C. Whether the proposed amendment would be in conflict with the public interest and whether it is in harmony with the purpose and intent of this Title.

Sec. 26.310.050. Standards of review for amendments to the Official Zone District Map.

In reviewing an amendment to the Official Zone District Map, the City Council and the Planning and Zoning Commission shall consider:

A. Whether the proposed amendment is in conflict with any applicable portions of this Title.

A.B. Whether the proposed amendment is compatible with surrounding zone districts and land uses, considering existing land use and neighborhood characteristics.

B.C. The effect of the proposed amendment on traffic generation and road safety.

C.D. Whether and the extent to which the proposed amendment would result in demands on public facilities and whether and the extent to which the proposed amendment would exceed the capacity of such public facilities including, but not limited to, transportation facilities, sewage facilities, water supply, parks, drainage, schools and emergency medical facilities.

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- | ~~D.E.~~ Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment.
- | ~~E.F.~~ Whether the proposed amendment is consistent and compatible with the community character in the City.
- | ~~F.G.~~ Whether there have been changed conditions affecting the subject parcel or the surrounding neighborhood which support the proposed amendment.
- | ~~G.H.~~ Whether the proposed amendment would be in conflict with the public interest and whether it is in harmony with the purpose and intent of this Title.
- | ~~Sec. 26.310.050. Reserved~~

Chapter 26.314 VARIANCES

Sections:

Sec. 26.314.010	Purposes
Sec. 26.314.020	Authority
Sec. 26.314.030	Authorized variances
Sec. 26.314.040	Standards applicable to variances
Sec. 26.314.050	Procedure for variance approval
Sec. 26.314.060	Conditions
Sec. 26.314.070	Expiration
Sec. 26.314.080	Appeals

Sec. 26.314.040. Standards applicable to variances.

A. In order to authorize a variance from the dimensional requirements of Title 26, the appropriate decision-making body shall make a finding that the following three (3) circumstances exist:

1. The grant of variance will be generally consistent with the purposes, goals, objectives and policies of ~~the Aspen Area Community Plan and this~~ Title 26 and the Municipal Code; and
2. The grant of variance is the minimum variance that will make possible the reasonable use of the parcel, building or structure; and
3. Literal interpretation and enforcement of the terms and provisions of this Title would deprive the applicant of rights commonly enjoyed by other parcels in the same zone district and would cause the applicant unnecessary hardship, as distinguished from mere inconvenience. In determining whether an applicant's rights would be deprived, the Board shall consider whether either of the following conditions apply:
 - a. There are special conditions and circumstances which are unique to the parcel, building or structure, which are not applicable to other parcels, structures or buildings in the same zone district and which do not result from the actions of the applicant; or
 - b. Granting the variance will not confer upon the applicant any special privilege denied by ~~the Aspen Area Community Plan and~~ the terms of this Title and the Municipal Code to other parcels, buildings or structures, in the same zone district.

B. In order to authorize a variance from the permitted uses of Title 26, the appropriate decision-making body shall make a finding that all of the following circumstances exist:

1. Notice by publication, mailing and posting of the proposed variance has been provided to surrounding property owners in accordance with Subparagraphs 26.304.060.E.3.a.—c.

2. A variance is the only reasonable method by which to afford the applicant relief, and to deny a variance would cause the applicant unnecessary hardship such that the property would be rendered practically undevelopable, as distinguished from mere inconvenience.
4. The temporary off-site storage or construction staging can be undertaken in such a manner so as to minimize disruption, if any, of normal neighborhood activities surrounding the subject parcel.
5. If ownership of the off-site parcel subject to the proposed variance is not vested in the applicant, then verified written authorization of the parcel's owner must be provided.
6. Adequate provision is made to restore the subject parcel to its original condition upon expiration of the variance, including the posting of such financial security as deemed appropriate and necessary by the appropriate decision-making body to ensure such restoration.

Chapter 26.425

CONDITIONAL USES

Sections:

Sec. 26.425.010.	Purpose.
Sec. 26.425.020.	Authority.
Sec. 26.425.030.	Authorized conditional uses.
Sec. 26.425.040.	Standards applicable to all conditional uses.
Sec. 26.425.050.	Procedure for review.
Sec. 26.425.060.	Application.
Sec. 26.425.080.	Amendment of development order.

Sec. 26.425.040. Standards applicable to all conditional uses.

When considering a development application for a conditional use, the Planning and Zoning Commission shall consider whether all of the following standards are met, as applicable.

A. The conditional use is consistent with the ~~purposes, goals, objectives and standards of the Aspen Area Community Plan, with the~~ intent of the Zone District in which it is proposed to be located and complies with all other applicable requirements of this Title; and

B. The conditional use is consistent and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses ~~or~~ and enhances the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development; and

C. The location, size, design and operating characteristics of the proposed conditional use minimizes adverse effects, including visual impacts, impacts on pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibrations and odor on surrounding properties; and

D. There are adequate public facilities and services to serve the conditional use including but not limited to roads, potable water, sewer, solid waste, parks, police, fire protection, emergency medical services, hospital and medical services, drainage systems and schools; and

E. The applicant commits to supply affordable housing to meet the incremental need for increased employees generated by the conditional use; and

F. The Community Development Director may recommend and the Planning and Zoning Commission may impose such conditions on a conditional use that are necessary to maintain the integrity of the City's Zone Districts and to ensure the conditional use complies with ~~the purposes of the Aspen Area Community Plan,~~ this Chapter and this Title; is compatible with surrounding land uses; and is served by adequate public facilities. This includes, but is not limited to, imposing conditions on size, bulk, location, open space, landscaping, buffering, lighting, signage, off-street parking and other similar design features, the construction of public facilities

to serve the conditional use and limitations on the operating characteristics, hours of operation and duration of the conditional use.

Chapter 26.435
DEVELOPMENT IN ENVIRONMENTALLY SENSITIVE AREAS (ESA)

Sections:

Sec. 26.435.010.	Purpose.
Sec. 26.435.020.	Authority.
Sec. 26.435.030.	8040 Greenline review.
Sec. 26.435.040.	Stream margin review.
Sec. 26.435.050.	Mountain view plane review.
Sec. 26.440.060.	Application.
Sec. 26.435.070.	Procedure for approval of development in ESA.
Sec. 26.435.080.	Application.
Sec. 26.435.090.	Conditions.
Sec. 26.435.100.	Amendment of an ESA development order.

Sec. 26.435.030.8040 Greenline review.

C. 8040 Greenline review standards. No development shall be permitted at, above or one hundred fifty (150) feet below the 8040 Greenline unless the Planning and Zoning Commission makes a determination that the proposed development complies with all requirements set forth below.

1. The parcel on which the proposed development is to be located is suitable for development considering its slope, ground stability characteristics, including mine subsidence and the possibility of mudflow, rock falls and avalanche dangers. If the parcel is found to contain hazardous or toxic soils, the applicant shall stabilize and revegetate the soils or, where necessary, cause them to be removed from the site to a location acceptable to the City.
2. The proposed development does not have a significant adverse affect on the natural watershed, runoff, drainage, soil erosion or have consequent effects of water pollution.
3. The proposed development does not have a significant adverse affect on the air quality in the City.
4. The design and location of any proposed development, road or trail is compatible with the terrain on the parcel on which the proposed development is to be located.
5. Any grading will minimize, to the extent practicable, disturbance to the terrain, vegetation and natural land features.

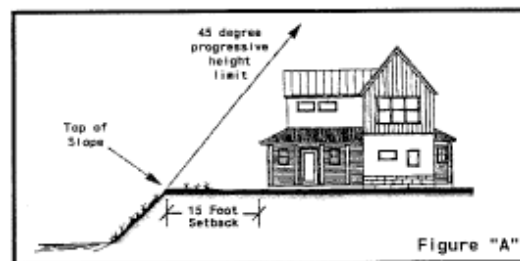
6. The placement and clustering of structures will minimize the need for roads, limit cutting and grading, maintain open space and preserve the mountain as a scenic resource.
7. Building height and bulk will be minimized and the structure will be designed to blend into the open character of the mountain.
8. Sufficient water pressure and other utilities are available to service the proposed development.
9. Adequate roads are available to serve the proposed development and said roads can be properly maintained.
10. Adequate ingress and egress is available to the proposed development so as to ensure adequate access for fire protection and snow removal equipment.
11. The adopted regulatory plans~~recommendations~~ of the ~~Aspen Area Community Plan: Parks/Recreation/Trails Plan~~ Open Space and Trails Board are implemented in the proposed development, to the greatest extent practical. (Ord. No. 55-2000, § 7)

Sec. 26.435.040. Stream margin review.

C. Stream margin review standards. No development shall be permitted within the stream margin of the Roaring Fork River unless the Community Development Director makes a determination that the proposed development complies with all requirements set forth below:

1. It can be demonstrated that any proposed development which is in the Special Flood Hazard Area will not increase the base flood elevation on the parcel proposed for development. This shall be demonstrated by an engineering study prepared by a professional engineer registered to practice in the State which shows that the base flood elevation will not be raised, including, but not limited to, proposing mitigation techniques on or off-site which compensate for any base flood elevation increase caused by the development; and
2. The adopted regulatory plans~~recommendations~~ of the ~~Aspen Area Community Plan: Parks/Recreation/Open Space/Trails Plan~~ Open Space and Trails Board and the Roaring Fork River Greenway Plan are implemented in the proposed plan for development, to the greatest extent practicable. Areas of historic public use or access shall be dedicated via a recorded easement for public use. A fisherman's easement granting public fishing access within the high water boundaries of the river course shall be granted via a recorded "Fisherman's Easement;" and
3. There is no vegetation removed or damaged or slope grade changes (cut or fill) made outside of a specifically defined building envelope. A building envelope shall be designated by this review and said envelope shall be designated by this review and said envelope shall be recorded on a plat pursuant to Subsection 26.435.040.F.1; and

4. The proposed development does not pollute or interfere with the natural changes of the river, stream or other tributary, including erosion and/or sedimentation during construction. Increased on-site drainage shall be accommodated within the parcel to prevent entry into the river or onto its banks. Pools or hot tubs cannot be drained outside of the designated building envelope; and
5. Written notice is given to the Colorado Water Conservation Board prior to any alteration or relocation of a water course and a copy of said notice is submitted to the Federal Emergency Management Agency; and
6. A guarantee is provided in the event a water course is altered or relocated, that applies to the developer and his heirs, successors and assigns that ensures that the flood carrying capacity on the parcel is not diminished; and
7. Copies are provided of all necessary federal and state permits relating to work within the 100-year flood plain; and
8. There is no development other than approved native vegetation planting taking place below the top of slope or within fifteen (15) feet of the top of slope or the high waterline, whichever is most restrictive. This is an effort to protect the existing riparian vegetation and bank stability. New plantings (including trees, shrubs, flowers and grasses) outside of the designated building envelope on the river side shall be native riparian vegetation as approved by the City. A landscape plan will be submitted with all development applications. The top of slope and 100-year flood plain elevation of the Roaring Fork River shall be determined by the Stream Margin Map located in the Community Development Department and filed at the City Engineering Department; and
9. All development outside the fifteen (15) foot setback from the top of slope does not exceed a height delineated by a line drawn at a forty-five (45) degree angle from ground level at the top of slope. Height shall be measured and determined by the Community Development Director using the definition for height set forth at Section 26.04.100 and method of calculating height set forth at Section 26.575.020 as shown in Figure "A"; and



10. All exterior lighting is low and downcast with no light(s) directed toward the river or

located down the slope and shall be in compliance with Section 26.575.150. A lighting plan will be submitted with all development applications; and

11. There has been accurate identification of wetlands and riparian zones.

Chapter 26.440
SPECIALLY PLANNED AREA (SPA)

Sections:

- Sec. 26.440.010. Purpose.
- Sec. 26.440.020. Applicability.
- Sec. 26.440.030. Designation of Specially Planned Area (SPA).
- Sec. 26.440.040. Procedures for review.
- Sec. 26.440.050. Review standards for development in a Specially Planned Area (SPA).
- Sec. 26.440.060. Application.
- Sec. 26.440.070. SPA agreement and recordation.
- Sec. 26.440.090. Amendment to development order.

Sec. 26.440.050. Review standards for development in a Specially Planned Area (SPA).

A. General. In the review of a development application for a conceptual development plan and a final development plan, the Planning and Zoning Commission and City Council shall consider the following:

1. Whether the proposed development is compatible with or enhances the mix of development in the immediate vicinity of the parcel in terms of land use, density, height, bulk, architecture, landscaping and open space.
2. Whether sufficient public facilities and roads exist to service the proposed development.
3. Whether the parcel proposed for development is generally suitable for development, considering the slope, ground instability and the possibility of mudflow, rock falls, avalanche dangers and flood hazards.
4. Whether the proposed development creatively employs land planning techniques to preserve significant view planes, avoid adverse environmental impacts and provide open space, trails and similar amenities for the users of the project and the public at large.
5. ~~Whether the proposed development is in compliance with the Aspen Area Comprehensive Plan.~~ Whether the proposed development emphasizes quality construction and design in relation to exterior materials, weathering, snow shedding and storage, and energy efficiency.
6. Whether the proposed development will require the expenditure of excessive public funds to provide public facilities for the parcel or the surrounding neighborhood.
7. Whether proposed development on slopes in excess of twenty percent (20%) meet the slope reduction and density requirements of Subsection 26.445.040.B.2.
8. Whether there are sufficient GMQS allotments for the proposed development.

The burden shall rest upon an applicant to demonstrate the general reasonableness and suitability of the proposed development and its conformity to the standards and procedures of this Chapter and Section; provided, however, that in the review of the conceptual development plan, consideration will be given only to the general concept for the development, while during the review of the final development plan, detailed evaluation of the specific aspects of the development will be accomplished.

B. Variations permitted. The final development plan shall comply with the requirements of the underlying zone district; provided, however, that variations from those requirements may be allowed based on the standards of this Section. Variations may be allowed for the following requirements: open space, minimum distance between buildings, maximum height, minimum front yard, minimum rear yard, minimum side yard, minimum lot width, minimum lot area, trash access area, internal floor area ratio, number of off-street parking spaces and uses and design standards of Chapter 26.410 for streets and related improvements. Any variations allowed shall be specified in the SPA agreement and shown on the final development plan.

Chapter 26.445
PLANNED UNIT DEVELOPMENT (PUD)

Sections:

- Sec. 26.445.010. Purpose.
- Sec. 26.445.020. Applicability.
- Sec. 26.445.030. Procedures for review.
- Sec. 26.445.040. General provisions.
- Sec. 26.445.050. Review standards: conceptual, final, consolidated and minor PUD.
- Sec. 26.445.060. Application materials.
- Sec. 26.445.070. Recording a final PUD development plan.
- Sec. 26.445.080. Notice of PUD designation.
- Sec. 26.445.090. Placement of PUD designation on Official Zone District Map.
- Sec. 26.445.100. Amendment of PUD development order.
- Sec. 26.445.110. Enforcement of PUD development order.

Sec. 26.445.020. Applicability.

Before any development shall occur on land designated Planned Unit Development (PUD) on the official zone district map or before development can occur as a PUD, it shall receive final PUD approval pursuant to the terms of this Chapter. However, in no event shall adoption of a final development plan be required for the construction of a single detached- or duplex-residential dwelling on a separate lot, in conformance with the General Provisions of this Chapter, Section 26.445.040 below. All land with a PUD designation shall also be designated with an underlying zone district designation most appropriate for that land.

A development application for a Planned Unit Development (PUD) may be applied for by the property owners of any proposed development in the City that is on a parcel of land equal to or greater than twenty-seven thousand (27,000) square feet intended for residential, commercial, tourist or other development purposes.

A development application for a Planned Unit Development (PUD) may be applied for by the property owners of any proposed development in the City that is on a parcel of land less than twenty-seven thousand (27,000) square feet intended for multi-family residential, commercial, tourist or other development purposes if, prior to application, the Community Development Director determines the development of the property may have the ability to further the adopted goals of the ~~Aspen Area Community Plan~~community and that the provisions of the Planned Unit Development land use review process will best serve the interests of the community. By virtue of this determination, the application shall not be granted any special rights or privileges and shall be required to demonstrate compliance with all applicable portions of this Chapter.

If the Community Development Director determines the proposed development is not suitable to be reviewed as a Planned Unit Development, the property owner may appeal the decision to the Planning and Zoning Commission and the Commission, by Resolution and after considering a recommendation made by the Community Development Director, may determine that the development of the property may have the ability to further the adopted goals of the ~~Aspen Area Community Plan~~community and that the provisions of the Planned Unit Development land use

review process will best serve the interests of the community. By virtue of this determination, the application shall not be granted any special rights or privileges and shall be required to demonstrate compliance with all applicable portions of this chapter.

A development application for a Minor Planned Unit Development (Minor PUD) may be applied for by the property owners of a parcel of land located within the Lodge Preservation Overlay (LP) Zone District intended for development consistent with the purpose of the LP Overlay Zone District. (Ord. No. 10-1999, § 2 (part); Ord. No. 52-1999, § 1)

Sec. 26.445.050. Review standards: conceptual, final, consolidated and minor PUD.

A development application for conceptual, final, consolidated, conceptual and final or minor PUD shall comply with the following standards and requirements. Due to the limited issues associated with conceptual reviews and properties eligible for minor PUD review, certain standards shall not be applied as noted. The burden shall rest upon an applicant to show the reasonableness of the development application and its conformity to the standards and procedures of this Chapter and this Title.

A. General requirements.

1. The proposed development shall be ~~consistent with the Aspen Area Community Plan~~ compatible with the mix of development in the immediate vicinity of the parcel in terms of density, height, bulk, and architecture.
2. The proposed development shall be consistent with the character of existing land uses in the surrounding area.
3. The proposed development shall not adversely affect the future development of the surrounding area.
4. The proposed development has either been granted GMQS allotments, is exempt from GMQS or GMQS allotments are available to accommodate the proposed development and will be considered prior to or in combination with, final PUD development plan review.

B. Establishment of dimensional requirements: The final PUD development plans shall establish the dimensional requirements for all properties within the PUD as described in General Provisions, Section 26.445.040, above. The dimensional requirements of the underlying Zone District shall be used as a guide in determining the appropriate dimensions for the PUD. During review of the proposed dimensional requirements, compatibility with surrounding land uses and existing development patterns shall be emphasized. The proposed dimensional requirements shall comply with the following:

1. The proposed dimensional requirements for the subject property are appropriate and compatible with the following influences on the property:
 - a) The character of and compatibility with, existing and expected future land uses in the surrounding area.
 - b) Natural or man-made hazards.
 - c) Existing natural characteristics of the property and surrounding area such as steep slopes, waterways, shade and significant vegetation and landforms.

- d) Existing and proposed man-made characteristics of the property and the surrounding area such as noise, traffic, transit, pedestrian circulation, parking and historical resources.
2. The proposed dimensional requirements permit a scale, massing and quantity of open space and site coverage appropriate and favorable to the character of the proposed PUD and of the surrounding area.
3. The appropriate number of off-street parking spaces shall be established based on the following considerations:
 - a) The probable number of cars used by those using the proposed development including any nonresidential land uses.
 - b) The varying time periods of use, whenever joint use of common parking is proposed.
 - c) The availability of public transit and other transportation facilities, including those for pedestrian access and/or the commitment to utilize automobile disincentive techniques in the proposed development.
 - d) The proximity of the proposed development to the commercial core and general activity centers in the City.
4. The maximum allowable density within a PUD may be reduced if there exists insufficient infrastructure capabilities. Specifically, the maximum density of a PUD may be reduced if:
 - a) There is not sufficient water pressure, drainage capabilities or other utilities to service the proposed development.
 - b) There are not adequate roads to ensure fire protection, snow removal and road maintenance to the proposed development.
5. The maximum allowable density within a PUD may be reduced if there exists natural hazards or critical natural site features. Specifically, the maximum density of a PUD may be reduced if:
 - a) The land is not suitable for the proposed development because of ground instability or the possibility of mudflow, rock falls or avalanche dangers.
 - b) The effects of the proposed development are detrimental to the natural watershed, due to runoff, drainage, soil erosion and consequent water pollution.
 - c) The proposed development will have a pernicious effect on air quality in the surrounding area and the City.
 - d) The design and location of any proposed structure, road, driveway or trail in the proposed development is not compatible with the terrain or causes harmful disturbance to critical natural features of the site.
6. The maximum allowable density within a PUD may be increased if there exists a significant community goal to be achieved through such increase and the development pattern is compatible with its surrounding development patterns and with the site's physical constraints. Specifically, the maximum density of a PUD may be increased if:

- a) The increase in density serves one or more adopted goals of the community ~~as expressed in the Aspen Area Community Plan (AACP) or~~ a specific ~~area~~ master plan, as applicable, to which the property is subject.
- b) The site's physical capabilities can accommodate additional density and there exists no negative physical characteristics of the site, as identified in Subparagraphs 4 and 5, above, those areas can be avoided or those characteristics mitigated.
- c) The increase in maximum density results in a development pattern compatible with and complimentary to, the surrounding existing and expected development pattern, land uses and characteristics.

Notes:

- a) Lot sizes for individual lots within a PUD may be established at a higher or lower rate than specified in the underlying Zone District as long as, on average, the entire PUD conforms to the maximum density provisions of the respective Zone District or as otherwise established as the maximum allowable density pursuant to a final PUD Development Plan.
- b) The approved dimensional requirements for all lots within the PUD are required to be reflected in the final PUD development plans.

C. Site design. The purpose of this standard is to ensure the PUD enhances public spaces, is complimentary to the site's natural and man-made features and the adjacent public spaces and ensures the public's health and safety. The proposed development shall comply with the following:

1. Existing natural or man-made features of the site which are unique, provide visual interest or a specific reference to the past or contribute to the identity of the town are preserved or enhanced in an appropriate manner.
2. Structures have been clustered to appropriately preserve significant open spaces and vistas.
3. Structures are appropriately oriented to public streets, contribute to the urban or rural context where appropriate and provide visual interest and engagement of vehicular and pedestrian movement.
4. Buildings and access ways are appropriately arranged to allow emergency and service vehicle access.
5. Adequate pedestrian and handicapped access is provided.
6. Site drainage is accommodated for the proposed development in a practical and reasonable manner and shall not negatively impact surrounding properties.
7. For nonresidential land uses, spaces between buildings are appropriately designed to accommodate any programmatic functions associated with the use.

D. Landscape plan. The purpose of this standard is to ensure compatibility of the proposed landscape with the visual character of the City, with surrounding parcels and with existing and proposed features of the subject property. The proposed development shall comply with the following:

1. The landscape plan exhibits a well-designated treatment of exterior spaces, preserves existing significant vegetation and provides an ample quantity and variety of ornamental plant species suitable for the Aspen area climate.
2. Significant existing natural and man-made site features, which provide uniqueness and interest in the landscape, are preserved or enhanced in an appropriate manner.
3. The proposed method of protecting existing vegetation and other landscape features is appropriate.

E. Architectural character.

1. Be compatible with or enhance the visual character of the City, appropriately relate to existing and proposed architecture of the property, represent a character suitable for and indicative of the intended use and respect the scale and massing of nearby historical and cultural resources.
2. Incorporate, to the extent practical, natural heating and cooling by taking advantage of the property's solar access, shade and vegetation and by use of non- or less-intensive mechanical systems.
3. Accommodate the storage and shedding of snow, ice and water in a safe and appropriate manner that does not require significant maintenance.
4. Emphasize quality construction and design in relation to exterior materials, weathering, snow shedding and storage, and energy efficiency.

F. Lighting. The purpose of this standard to ensure the exterior of the development will be lighted in an appropriate manner considering both Public Safety and general aesthetic concerns. The following standards shall be accomplished:

1. All lighting is proposed so as to prevent direct glare or hazardous interference of any kind to adjoining streets or lands. Lighting of site features, structures and access ways is proposed in an appropriate manner.
2. All exterior lighting shall in compliance with the outdoor lighting standards unless otherwise approved and noted in the final PUD documents. Up-lighting of site features, buildings, landscape elements and lighting to call inordinate attention to the property is prohibited for residential development.

G. Common park, open space or recreation area. If the proposed development includes a common park, open space or recreation area for the mutual benefit of all development in the proposed PUD, the following criteria shall be met:

1. The proposed amount, location and design of the common park, open space or recreation area enhances the character of the proposed development, considering existing and proposed structures and natural landscape features of the property, provides visual relief to the property's built form and is available to the mutual benefit of the various land uses and property users of the PUD.
2. A proportionate, undivided interest in all common park and recreation areas is deeded in perpetuity (not for a number of years) to each lot or dwelling unit owner within the PUD or ownership is proposed in a similar manner.
3. There is proposed an adequate assurance through a legal instrument for the permanent care and maintenance of open spaces, recreation areas and shared facilities together with a deed restriction against future residential, commercial or industrial development.

H. Utilities and public facilities. The purpose of this standard is to ensure the development does not impose an undue burden on the City's infrastructure capabilities and that the public does not incur an unjustified financial burden. The proposed utilities and public facilities associated with the development shall comply with the following:

1. Adequate public infrastructure facilities exist to accommodate the development.
2. Adverse impacts on public infrastructure by the development will be mitigated by the necessary improvements at the sole cost of the developer.
3. Oversized utilities, public facilities or site improvements are provided appropriately and where the developer is reimbursed proportionately for the additional improvement.

I. Access and circulation. (Only standards 1 & 2 apply to minor PUD applications) The purpose of this standard is to ensure the development is easily accessible, does not unduly burden the surrounding road network, provides adequate pedestrian and recreational trail facilities and minimizes the use of security gates. The proposed access and circulation of the development shall meet the following criteria:

1. Each lot, structure or other land use within the PUD has adequate access to a public street either directly or through an approved private road, a pedestrian way or other area dedicated to public or private use.
2. The proposed development, vehicular access points and parking arrangement do not create traffic congestion on the roads surrounding the proposed development or such surrounding roads are proposed to be improved to accommodate the development.
3. Areas of historic pedestrian or recreational trail use, improvements of or connections to, the bicycle and pedestrian trail system and adequate access to significant public lands and

the rivers are provided through dedicated public trail easements and are proposed for appropriate improvements and maintenance.

4. The recommendations of ~~the Aspen Area Community Plan and~~ adopted specific master plans, as applicable, regarding recreational trails, pedestrian and bicycle paths and transportation are proposed to be implemented in an appropriate manner.
5. Streets in the PUD which are proposed or recommended to be retained under private ownership provide appropriate dedication to public use to ensure appropriate public and emergency access.
6. Security gates, guard posts or other entryway expressions for the PUD or for lots within the PUD, are minimized to the extent practical.

J. Phasing of development plan. (does not apply to conceptual PUD applications) The purpose of this criteria is to ensure partially completed projects do not create an unnecessary burden on the public or surrounding property owners and impacts of an individual phase are mitigated adequately. If phasing of the development plan is proposed, each phase shall be defined in the adopted final PUD development plan. The phasing plan shall comply with the following:

1. All phases, including the initial phase, shall be designed to function as a complete development and shall not be reliant on subsequent phases.
2. The phasing plan describes physical areas insulating, to the extent practical, occupants of initial phases from the construction of later phases.
3. The proposed phasing plan ensures the necessary or proportionate improvements to public facilities, payment of impact fees and fees-in-lieu, construction of any facilities to be used jointly by residents of the PUD, construction of any required affordable housing and any mitigation measures are realized concurrent or prior to the respective impacts associated with the phase. (Ord. No. 12, 2007, §24)

Chapter 26.470
GROWTH MANAGEMENT QUOTA SYSTEM (GMQS)

Sections:

Sec. 26.470.010.	Purpose.
Sec. 26.470.020.	Applicability.
Sec. 26.470.030.	Aspen metro area development ceilings and annual allotments.
Sec. 26.470.040.	Exempt development.
Sec. 26.470.050.	General requirements.
Sec. 26.470.060.	Administrative applications.
Sec. 26.470.070.	Minor Planning and Zoning Commission applications.
Sec. 26.470.080.	Major Planning and Zoning Commission applications.
Sec. 26.470.090.	City Council applications.
Sec. 26.470.100.	Calculations.
Sec. 26.470.110.	Growth management review procedures.
Sec. 26.470.120.	Community objective scoring criteria.
Sec. 26.470.130.	Reconstruction limitations.
Sec. 26.470.140.	Amendment of a growth management development order.
Sec. 26.470.150.	Appeals.

Sec. 26.470.030. Aspen metro area development ceilings and annual allotments.

F. Accounting procedure. The Community Development Director shall maintain an ongoing account of available, requested and approved growth management allocations and progress towards each development ceiling. Allotments shall be considered allocated upon issuance of a development order for the project. Unless specifically not deducted from the annual development allotment and development ceilings, all units of growth shall be included in the accounting. Affordable housing units shall be deducted regardless of the unit being provided as growth mitigation or otherwise. After the conclusion of each growth management session and year, the Community Development Director shall prepare a summary of growth allocations.

The City Council, at its first regular meeting of the growth management year, shall review, during a public hearing, the prior year's growth summary, consider a recommendation from the Community Development Director, consider comments from the general public and shall, via adoption of a resolution, establish the number of unused and unclaimed allotments to be carried forward and added to the annual allotment. The City Council may carry forward any portion of the previous year's unused allotment, including all or none.

The City Council shall also consider the remaining development allotments within the development ceilings, established pursuant to Subsection 26.470.030.C, and shall reduce the available development allotment by any amount that exceeds the development ceiling. The public hearing shall be noticed by publication, pursuant to Subparagraph 26.304.060.E.3.a. The City Council shall consider the following criteria in determining the allotments to be carried forward:

- ~~1. The goals and objectives of the Aspen Area Community Plan.~~

21. The community's growth rate over the preceding five-year period.
32. The ability of the community to absorb the growth that could result from a proposed development utilizing accumulated allotments, including issues of scale, infrastructure capacity, construction impacts and community character.
43. The expected impact from approved developments that have obtained allotments, but that have not yet been built. (Ord. No. 21-2005, §1; Ord. No. 12-2006, §§1, 2; Ord. No. 14, 2007, §1)

Sec. 26.470.050. General requirements.

A. Purpose: The intent of growth management is to provide for orderly development and redevelopment of the City while providing mitigation from the impacts said development and redevelopment creates. Different types of development are categorized below, as well as the necessary review process and review standards for the proposed development. A proposal may fall into multiple categories and therefore have multiple processes and standards to adhere to and meet.

B. General requirements: All development applications for growth management review shall comply with the following standards. The reviewing body shall approve, approve with conditions or deny an application for growth management review based on the following generally applicable criteria and the review criteria applicable to the specific type of development:

1. Sufficient growth management allotments are available to accommodate the proposed development, pursuant to Subsection 26.470.030.D. Applications for multi-year development allotment, pursuant to Paragraph 26.470.090.1 shall not be required to meet this standard.
2. The proposed development is ~~consistent with the Aspen Area Community Plan~~ compatible with land uses in the surrounding area.
3. The development conforms to the requirements and limitations of the zone district.
4. The proposed development is consistent with the Conceptual Historic Preservation Commission approval, the Conceptual Commercial Design Review approval and the Conceptual Planned Unit Development approval, as applicable.
5. Unless otherwise specified in this Chapter, sixty percent (60%) of the employees generated by the additional commercial or lodge development, according to Subsection 26.470.100.A, Employee generation rates, are mitigated through the provision of affordable housing. The employee generation mitigation plan shall be approved pursuant to Paragraph 26.470.070.4, Affordable housing, at a Category 4 rate as defined in the Aspen/Pitkin County Housing Authority Guidelines, as amended. An applicant may choose to provide mitigation units at a lower category designation. If an applicant chooses to use a Certificate of Affordable Housing Credit as mitigation, pursuant to Chapter 26.540, such Certificate

shall be extinguished pursuant to Chapter 26.540.90 Criteria for Administrative Extinguishment of the Certificate. (Ord. No. 6 – 2010, §2)

6. Affordable housing net livable area, for which the finished floor level is at or above natural or finished grade, whichever is higher, shall be provided in an amount equal to at least thirty percent (30%) of the additional free-market residential net livable area, for which the finished floor level is at or above natural or finished grade, whichever is higher.

Affordable housing shall be approved pursuant to Paragraph 26.470.070.4, Affordable housing, and be restricted to a Category 4 rate as defined in the Aspen/Pitkin County Housing Authority Guidelines, as amended. An applicant may choose to provide mitigation units at a lower category designation. Affordable housing units that are being provided absent a requirement ("voluntary units") may be deed-restricted at any level of affordability, including residential occupied. If an applicant chooses to use a Certificate of Affordable Housing Credit as mitigation, pursuant to Chapter 26.540, such Certificate shall be extinguished pursuant to Chapter 26.540.90 Criteria for Administrative Extinguishment of the Certificate, utilizing the calculations in Section 26.470.100 Employee/Square Footage Conversion. (Ord. No. 6 – 2010, §2)

7. The project represents minimal additional demand on public infrastructure, or such additional demand is mitigated through improvement proposed as part of the project. Public infrastructure includes, but is not limited to, water supply, sewage treatment, energy and communication utilities, drainage control, fire and police protection, solid waste disposal, parking and road and transit services. (Ord. No. 14, 2007, §1)

Chapter 26.480 SUBDIVISION

Sec. 26.480.010.	Purpose.
Sec. 26.480.020.	Applicability and prohibitions.
Sec. 26.480.030.	Exemptions.
Sec. 26.480.040.	Procedures for review.
Sec. 26.480.050.	Review standards.
Sec. 26.480.060.	Application.
Sec. 26.480.070.	Subdivision agreement.
Sec. 26.480.080.	Amendment to subdivision development order.
Sec. 26.480.090.	Condominiumization.

Sec. 26.480.050. Review standards.

A development application for subdivision review shall comply with the following standards and requirements:

A. General requirements.

1. The proposed subdivision shall be ~~consistent with the Aspen Area Comprehensive Plan.~~ compatible with the mix of development in the immediate vicinity of the parcel in terms of density, height, bulk, architecture, landscaping and open space.
2. The proposed subdivision shall be consistent with the character of existing land uses in the area.
3. The proposed subdivision shall not adversely affect the future development of surrounding areas.
4. The proposed subdivision shall be in compliance with all applicable requirements of this Title.

B. Suitability of land for subdivision.

1. Land suitability. The proposed subdivision shall not be located on land unsuitable for development because of flooding, drainage, rock or soil creep, mudflow, rockslide, avalanche or snowslide, steep topography or any other natural hazard or other condition that will be harmful to the health, safety or welfare of the residents in the proposed subdivision.
2. Spatial pattern efficient. The proposed subdivision shall not be designed to create spatial patterns that cause inefficiencies, duplication or premature extension of public facilities and unnecessary public costs.

C. Improvements. The improvements set forth at Chapter 26.580 shall be provided for the proposed subdivision. These standards may be varied by special review (See, Chapter 26.430) if the following conditions have been met:

1. A unique situation exists for the development where strict adherence to the subdivision design standards would result in incompatibility with an adopted specific master plan, Title 28, the municipal code, ~~the Aspen Area Comprehensive Plan,~~—the existing, neighboring development areas and/or the goals of the community.
2. The applicant shall specify each design standard variation requested and provide justification for each variation request, providing design recommendations by professional engineers as necessary.

D. Affordable housing. A subdivision which is comprised of replacement dwelling units shall be required to provide affordable housing in compliance with the requirements of Chapter 26.520, Replacement housing program. A subdivision which is comprised of new dwelling units shall be required to provide affordable housing in compliance with the requirements of Chapter 26.470, Growth Management Quota System.

E. School land dedication. Compliance with the School land dedication standards set forth at Chapter 26.620.

F. Growth management approval. Subdivision approval may only be granted to applications for which all growth management development allotments have been granted or growth management exemptions have been obtained, pursuant to Chapter 26.470. Subdivision approval may be granted to create a parcel(s) zoned Affordable Housing Planned Unit Development (AH-PUD) without first obtaining growth management approvals if the newly created parcel(s) is required to obtain such growth management approvals prior to development through a legal instrument acceptable to the City Attorney. (Ord. No. 44-2001, §2; Ord. No. 12, 2007, §§29, 30)

Chapter 26.515
OFF-STREET PARKING

Sections:

- 26.515.010 General provisions
- 26.515.020 Characteristics of off-street parking spaces
- 26.515.030 Required number of off-street parking spaces
- 26.515.040 Special review standards
- 26.515.050 Cash-in-lieu for mobility enhancements

26.515.010. General provisions.

A. General requirements. All development shall be provided with off-street parking as provided in this Chapter.

B. Requirements for expansion/redevelopment of existing development. No development shall reduce the number of existing off-street parking spaces below the minimum number of existing spaces required herein for that development, unless expressly exempted by this Chapter. If existing development is expanded, additional off-street parking spaces shall be provided for that increment of the expansion as if it is a separate development. An existing deficit of parking may be maintained when a property is redeveloped.

C. Off-street parking calculation. All requirements for off-street parking for residential dwellings and lodges shall be calculated based on the number of units. Requirements for off-street parking for commercial uses shall be calculated based on the net leasable area of the structure or use. Requirements for all other land uses not considered residential, lodging or commercial shall be established by special review.

D. Required number of spaces when fractional spaces computed. When any calculation of off-street parking results in a required fractional space, said fractional space may be paid through a cash-in-lieu payment, or an entire space may be provided on the site.

E. Commercial Parking Facilities. When a parking facility is proposed to function as a commercial parking facility, as such terms are used herein, review and approval shall be according to Chapter 26.430, Special review and the review standards of Section 26.515.040, Special review standards. Development of such a facility may also require conditional use review in some Zone Districts. Also see definition of "Commercial parking facility," Section 26.104.100. (Ord. No. 17-2005, § 1)

26.515.020. Characteristics of off-street parking spaces.

A. General. Each off-street parking space shall consist of an open area measuring eight and one half (8½) feet wide by eighteen (18) feet long and seven (7) feet high with a maximum slope of twelve percent (12%) in any one direction. Each parking space, except those provided for detached residential dwellings and duplex dwellings, shall have an unobstructed access to a street or alley. Off-street parking provided for multi-family dwellings which do not share a common parking area may be exempted from the unobstructed access requirement subject to special review pursuant to Chapter 26.430, Special review and the standards set forth at Section 26.515.040, Special review standards, below. Off-street parking must be paved with all weather surfacing or be covered with gravel. For residential development, a grass ring or grass-paver-type surface may be used. All parking shall be maintained in a usable condition at all times.

B. Location of off-street parking. Off-street parking shall be located on the same parcel as the principal use or an adjacent parcel under the same ownership as the lot occupied by the principal use. For all uses, parking shall be accessed from an alley or secondary road, where one (1) exists unless otherwise established according to this Chapter.

C. Detached and duplex residential dwelling parking. Off-street parking provided for detached residential dwellings and duplex dwellings are not required to have unobstructed access to a street or alley, but shall not block access of emergency apparatus to the property or to structures located on the property. This allows for "stacking" of vehicles where one (1) vehicle is parked directly behind another.

D. State Highway 82 off-street parking. All parking required for uses fronting State Highway 82 shall, if an alley exists, be provided access off the alley and shall not enter from or exit onto State Highway 82.

E. Restrictions on use of off-street parking areas. No off-street parking area shall be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies, nor shall any such activity adjacent to off-street parking spaces obstruct required access to off-street parking areas. Parking spaces shall be used for the parking of vehicles and shall not be used for nonauto related uses such as storage units or trash containers. Parking spaces may only be used as a commercial parking facility if approved for such use. See Subsection 26.515.010.E and the definition of commercial parking facility, Section 26.104.100. Commercial parking facilities shall require special review approval and may also require conditional use approval in some Zone Districts.

F. Surface parking. Surface parking is prohibited or requires conditional use review as a principal use of a lot or parcel in some Zone Districts. For surface parking of eight (8) or more spaces, parking areas shall include one (1) tree with a planter area of twenty (20) square feet for each four (4) parking spaces. Planter areas may be combined, but shall be proximate to the parking spaces. The Planning and Zoning Commission may waive or modify this requirement on a per case basis. Parking within structures is exempt from this landscaping provision.

G. Restrictions on drainage, grading and traffic impact. Off-street parking spaces shall be graded to ensure drainage does not create any flooding or water quality problems and shall be provided with entrances and exits so as to minimize traffic congestion and traffic hazards.

H. Restrictions on lighting. Lighting facilities for off-street parking spaces, if provided, shall be arranged and shielded so that lights neither unreasonably disturb occupants of adjacent residential dwellings nor interfere with driver vision. All outdoor lighting shall comply with the outdoor lighting regulations, Section 26.575.150.

(Ord. No. 17-2005, § 1)

Sec. 26.515.030. Required number of off-street parking spaces.

Off-street parking spaces shall be provided for each use according to the schedule, below. Whenever the off-street parking is subject to establishment by adoption of a planned unit development final development plan, that review shall be pursuant to Chapter 26.445, Planned unit development. Whenever the parking requirement shall be established through a special review, the standards and procedures set forth at Section 26.515.040, Special review standards, below, shall apply. Whenever the parking requirement may be provided via a payment-in-lieu the standards and procedures set forth at Section 26.515.050, Cash-in-lieu for mobility enhancements, below, shall apply. An existing deficit of parking may be maintained when a property is redeveloped.

Use	Aspen Infill Area	All Other Areas
Commercial	One space per 1,000 net leasable square feet of commercial space. 100% may be provided through a payment in lieu.	Three spaces per 1,000 net leasable square feet of commercial space.
Residential – Single-Family and Duplex	Lesser of one space per bedroom or two spaces per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.	Lesser of one space per bedroom or two spaces per unit.
Residential – Accessory Dwelling Units and Carriage Houses	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.520, Accessory dwelling units and carriage houses.	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.520, Accessory dwelling units and carriage houses.
Residential – Multi-Family (as a single use)	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.	Lesser of one space per bedroom or two spaces per unit.

Residential – Multi-Family within a mixed-use building	One space per unit. 100% may be provided through a payment in lieu. No requirement for residential units in the CC and C-1 Zone Districts.	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.
Hotel/Lodge	.5 spaces per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040. No requirement for lodging units in the CC and C-1 Zone Districts.	0.7 spaces per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.
All Other Uses (civic, cultural, public uses, essential public facilities, child care centers, etc.)	Established by special review according to the review criteria of Section 26.515.040.	Established by special review according to the review criteria of Section 26.515.040.

For properties listed on the Aspen Inventory of Historic Landmark Sites and Structures, fewer spaces may be provided and/or a waiver of cash-in-lieu fees may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria set forth below.

For lodging projects with flexible unit configurations, also known as "lock-off units," each separate "key," or rentable division, shall constitute a unit for the purposes of this Section.

For projects with parking requirements in multiple categories (residential, commercial, lodging or other), the provision of on-site parking may be approved to satisfy the requirements for each use concurrently, pursuant to Chapter 26.430, Special review and according to the review criteria set forth below. (For example: A project comprised of commercial use requiring five [5] parking spaces and lodging use requiring five [5] parking spaces may be approved to provide less than ten [10] total parking spaces.) This shall not apply to parking which is provided through a payment-in-lieu.

(Ord. No. 17-2005, §1)

26.515.040. Special review standards.

Whenever the off-street parking requirements of a proposed development are subject to special review, an application shall be processed as a special review in accordance with the common development review procedures set forth in Chapter 26.304 and be evaluated according to the following standards. Review is by the Planning and Zoning Commission.

If the project requires review by the Historic Preservation Commission and the Community Development Director has authorized consolidation pursuant to Subsection 26.304.060.B, the Historic Preservation Commission shall approve, approve with conditions or disapprove the special review application.

A. A special review for establishing, varying or waiving off-street parking requirements may be approved, approved with conditions or denied based on conformance with the following criteria:

1. The parking needs of the residents, customers, guests and employees of the project have been met, taking into account potential uses of the parcel, the projected traffic generation of the project, any shared parking opportunities, expected schedule of parking demands, the projected impacts on the on-street parking of the neighborhood, the proximity to mass transit routes and the downtown area and any special services, such as vans, provided for residents, guests and employees.
2. An on-site parking solution meeting the requirement is practically difficult or results in an undesirable development scenario.
3. Existing or planned on-site or off-site parking facilities adequately serve the needs of the development, including the availability of street parking.

B. A special review to permit a commercial parking facility may be approved, approved with conditions or denied based on conformance with the following criteria:

1. The location, design and operating characteristics of the facility are consistent with ~~the Aspen Area Community Plan~~ an adopted regulatory master plan, as applicable.
2. The project has obtained growth management approvals or is concurrently being considered for growth management approvals.
3. The location, capacity and operating characteristics, including effects of operating hours, lighting, ventilation, noises etc., of the facility are compatible with the existing land uses in the surrounding area.
4. Access to the facility is from an acceptable location that minimizes staging problems, conflicts with pedestrian flow, conflicts with service delivery and elimination of on-street parking.
5. The proposed style of operation is appropriate (manned booth, key cards etc.).
6. The massing, scale and exterior aesthetics of the building or parking lot are compatible with the immediate context in which it is proposed.
7. Where appropriate, commercial uses are incorporated into the exterior of the facility's ground floor to mimic conventional development in that Zone District.

(Ord. No. 17-2005, §1)

26.515.050. Cash-in-lieu for Mobility Enhancements.

A. General. The City conducted a parking facility analysis in the fall of 2001 and determined the costs associated with developing new parking facilities to serve the demands of development. While not all potential facilities represented the same potential expenditure, facilities considered likely to be developed by the City required an expected twenty-five thousand dollars (\$25,000.00) to forty thousand dollars (\$40,000.00) per space to develop in 2001 dollars.

Parking serving commercial and mixed-use development is a public amenity and serves the mobility of the general population. As such, the mobility needs of the general population can be improved through various means other than the provision of on-site parking spaces.

B. Cash-in-lieu. A cash-in-lieu payment, for those types of development authorized to provide parking via cash-in-lieu, may be accepted by the Community Development Director to satisfy the off-street parking requirements as long as the following standards are met:

1. Amount. In developments, where the off-street parking requirement may be provided via a payment-in-lieu, the applicant shall make a one-time only payment to the City, in the amount of thirty thousand dollars (\$30,000.00) per space. A prorated payment shall be made when a portion of a space is required.
2. Time of payment. The payment-in-lieu of parking shall be due and payable at the time of issuance of a building permit. All funds shall be collected by the Community Development Director and transferred to the Finance Director for deposit in a separate interest bearing account.
3. Use of funds. Monies in the account shall be used solely for the construction of a parking facility, transportation improvements, including vehicles or station improvements, transportation demand management facilities or programs, shared automobiles or programs and similar transportation or mobility-related facilities or programs as determined appropriate by the City.
4. Refunds. Fees collected pursuant to this Section may be returned to the then-present owner of the property for which a fee was paid, including any interest earned, if the fees have not been spent within seven (7) years from the date fees were paid, unless the Council shall have earmarked the funds for expenditure on a specific project, in which case the time period shall be extended by up to three (3) more years. To obtain a refund, the present owner must submit a petition to the Finance Director within one (1) year following the end of the seventh (7th) year from the date payment was received by the City.

For the purpose of this Section, payments collected shall be deemed spent on the basis of "the first payment in shall be the first payment out." Any payment made for a project for which a building permit is revoked or cancelled, prior to construction, may be refunded if a petition for refund is submitted to the Finance Director within three (3) months of the

date of the revocation or cancellation of the building permit. All petitions shall be accompanied by a notarized, sworn statement that the petitioner is the current owner of the property and that the development shall not commence without full compliance with this Chapter and by a copy of the dated receipt issued for payment of the fee.

5. Periodic review of rate. In order to ensure that the payment-in-lieu rate is fair and represents current cost levels, it shall be reviewed periodically. Any necessary amendments to this Section shall be initiated pursuant to Section 26.310.020, Procedure for amendment.

(Ord. No. 17-2005, §1)