



**PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT**

455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 728-1392

Item No. 8

TO: Town of Mountain Village

FROM: Michelle Haynes, Planning and Development Services Director & Jim Mahoney, Attorney

FOR: Meeting of February 20, 2020

RE: Worksession regarding Community Development Code (CDC) amendments to the Planned Unit Development Regulations at CDC Section 17.4.12 and Hotbed Development and Condominium-Hotel Regulations at CDC Section 17.3.15 to simplify, clarify and correct errors.

Attachments:

- A. Planned Unit Development clean version draft
- B. Planned Unit Development Redline Draft
- C. Hotbed Development and Condominium-Hotel Regulations Redline Draft
- D. General Conformance Definition Draft

Introduction

The Town of Mountain Village adopted the Mountain Village Comprehensive Plan in 2011 and the Community Development Code (that replaced the former Land Use Ordinance) in 2013. Since 2013, the Town has processed only one PUD application relating to the existing Rosewood PUD and has not processed any other Planned Unit Development applications nor applied the Hotel Condominium regulations to any development project. Through pre-application meetings with developers and internal evaluations, we have found portions of either our Comprehensive Plan or Community Development Code regulations to be prohibitive in process and dis-incentivizing in achieving either town aspirations as expressed in the Comprehensive Plan nor development through the PUD process. In order to meet the very purpose and intent of the Comprehensive Plan and the CDC, we propose changes to the Planned Unit Development and the Condominium-Hotel Regulations sections of the CDC. Provided here are the sections with initial draft redline changes as a starting point for this discussion. Should Town Council direct staff and legal to continue with these modifications we will initiate an amendment of the CDC through an Ordinance and will begin that process.

Planned Unit Development (PUD) CDC Recommended edits

What is a PUD?

A Planned Unit Development is a standard land use and zoning tool that allows for variations to the underlying zoning requirements premised on two ideas: that the resulting development is better than what could be produced absent a PUD, and the variations/variances are approved in exchange for public benefits. PUD's are an effective tool for a community to achieve broad public benefits like land dedications, public facilities or services, workforce housing (to what extent to be discussed), easements for trails, or dedicated payments to realize town programs and projects. For example, a project may request more height or site coverage pursuant to a PUD because

they may also be able to provide a progressive mixed-use development consisting of hotbeds, community facilities, open space, parking, and common amenity areas. The town may find the requested height and site coverage acceptable because of the resulting mix of uses and public benefits. Absent a PUD process, the developer may not have been able to provide as many hotbeds or project amenities. Absent a PUD, the town would not have received any associated public benefits consistent with the community vision (Comprehensive Plan). In my experience, communities that do not have PUD regulations are less effective or unable to achieve creative and thoughtful developments and/or necessary community facilities and benefits.

Proposed PUD redline overview

The PUD section was reorganized and heavily edited. A clean version and redline version is been provided for ease of reading.

Staff's recommended redlines achieve the following:

- 1) Create one PUD application and process.
 - a. The intent behind two separate types of PUD's (SPUD and MPUD) was that the MPUD allowed non-contiguous parcels to be approved as a PUD and phased development. The proposed definition of a PUD will allow for continuous or non-contiguous parcels to be included in the PUD application. Phasing is determined through the development agreement and at the discretion of the Town Council.
- 2) Consolidate the PUD's general standards upfront.
- 3) Clarify concurrent review processes.
- 4) The PUD section carried over language regarding design review when it as only a one-step process. The redlines include a conforming language that recognizes a two-step design review process (initial and final architectural review by the DRB).
- 5) Consolidate and clarify the required legal agreements associated with an approved PUD and details related to those agreements as needed.
- 6) Consolidate and clarify vested property rights and what those mean.
- 7) Clarify the criteria for review.
- 8) Provide specifics regarding what the Town considers public benefits.
- 9) Streamline the process steps.
- 10) Clarify that a Major PUD amendment is processed the same as a new PUD.
- 11) Removes CDC and Comprehensive Plan requirements that are already required and/or redundant.
- 12) Clarify the process and outcomes of revocation, modification or expiration of a PUD.
- 13) Clarify the process and authority related to prior-approved PUD's.
- 14) Remove the term community benefit and replace it with public benefits, a standard PUD term.
- 15) Define General Conformance with the Comprehensive Plan.
 - a. General Conformance is referenced in the CDC over 20 times absent a definition. We are providing a definition.

What is also fixed through the PUD redline draft amendment?

The PUD section recognizes General Conformance with the Comprehensive Plan only if a development meets target heights, densities, and site-specific principles, policies and actions. Most problematic is that meeting these goals (listed above) **only** (emphasis added) count towards General Conformance and not as public benefits. As written, this language is problematic and dis-incentivizing. It will drive applicants to develop pursuant to the underlying zoning, if not amended.

The proposed PUD process requires approval at each step: Conceptual, Sketch, and Final. An applicant could not proceed without first receiving approval of the Conceptual Review as it relates

to mass, scale, density use, and public benefits. This should allow for an orderly and methodical review of an application and assurance early on that the proposal is approved to move to the next development review step.

The PUD can be reviewed in aggregate and this will reduce the number of additional applications.

Hot-Bed and Condominium Hotel Regulation Redline

The region has trended away from traditional single-ownership hotels and allowed for condominium-hotels, which permits individual ownership of units so long various terms and conditions are met including but not limited to the following:

- The units are managed through a qualified rental program and are in a rental pool when not occupied by an owner
- Required onsite hotel operator
- Provision of full-service amenities
- Lodge and efficiency lodge units shall not be occupied as a primary residence and otherwise used consistent with the definition of short-term accommodations
- Reporting requirements
- Standard furniture package
- Allow for lock-off configurations

What has been achieved by the proposed redline to the CDC code section?

- Remove possible FCC issues.
- Remove onerous table, unit ratio, and floor area requirements.
- Assure the condominium hotel will be used consistent with the purpose and intent of a hotel by providing regulations and standards of operation.

General Conformance Definition

We recommend amending the definition of General Conformance found in the Comprehensive Plan and adding a definition to the CDC, as attached.

Recommended Next Steps

- Receive direction regarding proposed CDC amendments.
- Provide a companion Comprehensive Plan amendment process and timeline at the March Town Council Meeting.

/mbh

17.4.12 PLANNED UNIT DEVELOPMENT REGULATIONS

A. Purpose and Intent

The purpose and intent of the Planned Unit Development (“PUD”) Regulations is to:

1. Permit variations from the strict application of zoning, land use, supplementary and/or design regulations of the CDC in order to allow for flexibility, creativity and innovation in land use planning and project design;
2. Provide for public benefits in exchange for land use variances and design variation consideration;
3. Implement the Comprehensive Plan.

B. General Standards

1. **PUD Application.** A Planned Unit Development (“PUD”) application can be made for a single parcel of land, contiguous parcels of land or noncontiguous parcels of land, controlled by a single landowner or by a group of landowners to be developed as a unified plan (in the case of a single parcel) or unified project (in the case of two or more contiguous or noncontiguous parcels).
 - a. The minimum density to be included in a PUD is ten (10) dwelling units. Commercial, public and other non-residential projects may also be proposed as part of a PUD.
2. **Authority to Initiate.** A development application for a PUD may be filed only by the owner(s) of fee title to all land to be included within such PUD or other person holding written consent thereto from the owner(s) of all land to be included in such PUD, or any combination thereof. No PUD may be approved without the written consent of the landowner(s) whose property is included in the PUD. Authority to initiate a PUD amendment may be by the owner(s) of fee title to at least sixty-seven percent (67%) of the real property within the PUD, an individual or entity having written permission of the property owner described above, or the Town.
3. **Minimum PUD Size.** There is no minimum land area or property size to be included in a PUD application.
4. **Concurrent Review.** The combination of application types into one submittal with concurrent review, is required as part of the PUD application process including and not limited to the following types of applications:
 - a. Rezone application.
 - b. Density transfer application,
 - c. Initial and Final Architectural Design Review applications,
 - d. Subdivision application.

The PUD process shall govern concurrent review of additional applications. The associated criteria for review for each type of application is required to be met consistent with the CDC, unless a land use variance or design variation is sought through the PUD process.

5. **Design Review.** The application may include the Initial and Final DRB Architectural Review as part of the PUD application. In lieu of the Initial and Final DRB Architectural Review approval, the minimum design requirements are listed below under Sketch PUD Plan. [insert cite here]
6. **Final PUD Plan.** The final PUD plan must be approved by Ordinance.
7. **Phasing.** An applicant can propose to phase the development of a PUD and if approved, the phasing terms would be outlined in the final PUD Agreement. Each phase of the development proposed shall be self-sufficient and not dependent upon later phases. Phases shall be structured so that the failure to develop subsequent phases shall not have any adverse impacts on the PUD, the surrounding environment, neighborhood and area. Town Council may prioritize phasing of hot-beds and workforce housing in advance of or concurrent with other zoning designations as deemed appropriate.
8. **PUD Development Agreement Required.**
 - a. An application for approval of a final PUD plan shall include a proposed PUD development agreement setting forth, at a minimum, the permitted uses and accessory uses, density, maximum and average building height and massing, zoning designations, floor area, site coverage, CDC and Design Regulations variations, rezonings, density transfers, subdivisions, requirements for the construction of any public improvements and facilities, public benefits, timetable and schedule of development, phasing requirements and conditions, any proposed conditions of approval and a statement establishing a vested property right.
 - b. The final PUD development agreement shall be executed by the owner(s) of the property included in the PUD development application and the Town and shall be recorded with the San Miguel County Clerk and Recorder at the applicant's expense.
9. **Public Improvements Agreement Required.** A PUD developer shall be responsible for the construction of all infrastructure, public facilities and improvements that are necessary for the development of the PUD, are required as a condition of approval of the PUD and consistent with CDC Section 17.4.13.F.L. Public Improvements Policy.
10. **Vested Property Rights.** Approval of a PUD constitutes approval of a site-specific development plan and an associated vested property right. See CDC Section 17.4.17 Vested Property Rights. A separate vested property right application is not required through the PUD process. Extension of a Vested Property Right requires a class 4 application consistent with CDC Section 17.4.17.
11. **Conflict.** To the extent of conflict between these PUD Regulations and C.R.S. 29-67-101 et seq., these regulations shall supersede that statute.

C. **Criteria for Decision**

1. The following criteria shall be met for the review authority to approve a PUD:
 - a. The proposed PUD is in general conformance with the Comprehensive Plan;
 - b. The proposed PUD is consistent with the underlying zone district and zoning

- designations on the site or to be applied to the site unless the PUD is proposing a variation to such standards;
- c. The development proposed for the PUD represents a creative approach to the development, use of land and related facilities to produce a better development than would otherwise be possible; and will provide amenities for residents of the PUD and the public in general;
 - d. The proposed PUD is consistent with and furthers the PUD purposes and intent;
 - e. The PUD meets the PUD general standards;
 - f. The PUD provides adequate public benefits;
 - g. Adequate public facilities and services are or will be available to serve the intended land uses;
 - h. The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
 - i. The proposed PUD meets all applicable Town regulations and standards unless a PUD is proposing a variation to such standards.

D. PUD Public Benefits

- 1. One or more of the following public benefits shall be considered in the evaluation of a PUD application:
 - a. Hot bed zoning designations, commercial area, or workforce housing above the existing platted zoning designations or density assigned to the lot or lots.
 - b. Attainment of principles, policies or actions envisioned in the Comprehensive Plan and/or public benefits as identified in the public benefits table in the Comprehensive Plan.
 - c. Public improvements above what would otherwise be required with development consistent with the CDC.
 - d. Public facilities offered and/or identified as a public benefits within the principles, policies or actions envisioned in the Comprehensive Plan.
 - e. Land dedications or easements.
 - f. Payment in lieu dedicated for town facilities, infrastructure, public parking or workforce housing.
 - g. Open space or park dedications.
 - h. The provision of onsite public parking.
 - i. A deed restriction and/or management agreement committing to onsite short-term rental of condominium or lodge zoning designation units for short term bed base when not occupied by the owner.
 - j. The provision of commercial space deed-restricted for non-profit, public or community use.

E. PUD Process. The steps in the PUD Process are as follows:

- 1. **Conceptual PUD Plan review (DRB and Town Council).** The Conceptual PUD Plan is a Class 4 application. Approval of the Conceptual PUD Plan constitutes the ability for the applicant to move to the next development review step. Conceptual approval will include, but not be limited to the following key elements of approval:
 - i. Mass (height, site coverage)
 - ii. Scale (including zoning designations and density)

- iii. Use (mix of use and site planning consistent with the Comprehensive Plan Eight Key Elements).
 - iv. Public Benefits
 - a. The DRB shall focus its review and comments on design-related issues pursuant to the Design Regulations including mass and scale. The Town Council shall focus its review on the other issues associated with a PUD, such as mass and scale, public benefits, density, use and general conformance with the Comprehensive Plan.
 - b. Conceptual PUD Plan approval is effective for a period of twelve (12) months from the date of approval, unless the Town Council, upon request of the applicant, grants an extension of the approval.
- 2. **Sketch PUD plan review.** The Sketch PUD Plan is a Class 4 Application. Sketch PUD plan review consists of a preliminary review and recommendation to Town Council regarding the PUD application (DRB) and Sketch PUD review by the Town Council.
 - a. The purpose of the Sketch PUD plan review is for the applicant to present its development application to the DRB with Design Review Process plans that are designed/engineered solutions to the issues and concerns identified during the conceptual PUD stage and to address the criteria for decision.
 - b. Sketch PUD approval authorizes the applicant to submit a final PUD application.
 - c. Sketch PUD approval shall be effective for a period of twelve (12) months from the date of approval, unless the DRB, upon request of the applicant, grants an extension of the approval.
 - d. The Sketch PUD plan application may also include the initial architectural design review application. If the PUD plan application does not include the initial and final architectural review applications, then the following minimal design submittal requirements shall be met with the Sketch PUD plan:
 - i. Conceptual Site Plan. A conceptual site plan prepared by a qualified consultant (architect, engineer, planner, etc.) in accordance with the applicable regulations of the CDC (Design Regulations, Zoning Regulations, etc.) shall be submitted to show the proposed location of any roads, driveways, buildings, sidewalks, trails, parking areas, amenity areas, plaza areas, easements, or other intended or required development.
 - ii. Conceptual Building Elevations and Floorplans: Conceptual architectural plans prepared by a Colorado licensed architect designed in accordance with the applicable regulations of the CDC (Design Regulations, Zoning Regulations, etc.) including but not limited to building elevations and floorplans with a scale of 1/4" = 1' to 1/16" = 1' for larger scale projects.
 - iii. Computer Massing Model. A computer massing model with interactive viewing capability (360 degree rotation, fly by, etc.) showing the proposed buildings and surrounding development to scale so the land uses and the visual impacts of the project can be evaluated pursuant to the CDC Comprehensive Plan project standards.

- iv. Conceptual Access Plan. A conceptual access plan providing access to and from the site of the rezoning shall be provided, including any needed infrastructure improvements as may be required by the Subdivision Regulations and the Road and Driveway Standards
- e. A draft PUD Agreement and draft ordinance are required to be submitted at this stage of Town review.
- f. The DRB and Town Council must approve the Sketch PUD plan in order for the applicant to continue to the Final PUD application. .

3. Final Architectural Plan Review. Final architectural plan review by the Design Review Board – when applicable. The Final Architectural Plan Review is a Class 3 Application. The final DRB review must occur prior to the Final PUD plan review by Town Council.

4. Final PUD plan review by the Town Council). The Final PUD Plan review is a Class 5 application.

- a. Final PUD approval shall include approval of an ordinance and PUD development agreement.
- b. Final PUD approval shall remain in effect for three (3) years following the date of the Town Council ordinance approving the PUD unless the time frame is extended by Town Council. The Town Council may approve a longer vesting period for a final SPUD based on unique circumstances or development objectives.
- c. In the event, a Final PUD plan is approved absent an initial and final architectural review approval, and was approved with the minimal design submittal requirements at sketch plan review, the applicant must submit a class 3 initial architectural and design review application during the PUD Plan approval period (3-year approval). The final architectural design review application will also need to be filed during the PUD plan approval period and will require a class 4 application. The DRB will review and render a decision on the final architectural design. The Town Council will also approve the final architectural review plan to assure that the final design plan is consistent with the Final PUD plan approval.

E. Planned Unit Development Amendment Process

1. Minor Amendments. A Minor PUD amendment development application shall be processed as a class 1 development application. A proposed PUD amendment is considered minor, as determined by the Director of Community Development, if it meets the following criteria for decision:

- a. The PUD amendment is not substantial and maintains the intent and integrity of the PUD development agreement and the associated plan sets, including but not limited to the required community benefits, or other public benefits or improvements outlined in the PUD development agreement;
- b. The PUD amendment does not change the density, zoning designation, increase the floor area or significantly alter any approved building scale and mass of the development; and
- c. The PUD amendment will not result in a net decrease in the amount of open

space nor result in a change in character of any of the open space proposed within the PUD.

2. **Major PUD Amendments.** A PUD amendment that is not classified as a minor amendment is considered a major amendment. Major PUD amendments shall follow the same PUD process steps as creation of a new PUD.

F. Enforcement of the PUD Plan

1. **By the Town.** The PUD development agreement shall run with and be a burden upon the land to which it applies. The rights and obligations set forth in the PUD development agreement shall run in favor of the Town and shall be enforceable at law or in equity by the Town without limitation on any power or regulation otherwise granted by law.
2. **By Residents, Occupants and Owners.** Those provisions of the PUD plan expressly running in favor of the residents, occupants and owners of the PUD, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by such residents, occupants or owners acting individually, jointly or through an organization designated in the PUD plan to act on their behalf.
3. **Relinquishment of Resident and Owner Rights.** Residents and owners in a PUD may, to the extent and in the manner expressly authorized by the provisions of the PUD, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the Town to enforce the provisions of the plan.

G. Revocation or Modification of a PUD by the Town.

1. The PUD development agreement shall provide for the right of the Town to modify or revoke a PUD for failure to comply with specific PUD requirements or without cause after the expiration of the vested rights for a PUD which has not commenced construction.
2. The owner(s) of property within the PUD boundary shall be notified of any modification, revocation or rezoning initiated by the Town.
3. Any Town Council action to revoke a PUD shall result in the reversion of the subject property to the land use in effect prior to the PUD approval including and not limited to the former zoning, density, and platting. The Town Council may elect to exempt the reversion of platting for good cause and/or for reasons such as land exchanges, or land conveyance within or outside of the PUD boundaries that were contemplated by the original PUD approval.
4. In the event the Town initiates a modification to a PUD for failure to comply with specific requirements of a PUD, the Major PUD amendment process shall be followed.
5. In order to revoke a PUD, the Town shall hold one Town Council worksession, one preliminary revocation public meeting, and one final revocation Town Council public hearing all of which shall be noticed in accordance with the notice requirements for class 4 applications even though the revocation process is not a class 4 application.

H. Expiration of a PUD.

1. Expiration of a Final PUD approval shall result in the reversion of the subject property

to the land use in effect prior to the PUD approval including and not limited to the former zoning, density, and platting. The Town Council may exempt the reversion of platting for good cause and/or for reasons such as land exchange, or land conveyance within or outside of the PUD boundaries. An exemption from the reversion of platting can be contemplated as part of the PUD approval, amendment or modification process for good cause or for reasons set forth in this section. Exemptions to platting for new, amended or modified PUD's shall be documented in the PUD Agreement.

I. Prior-Approved PUDs.

1. PUDs approved prior to the effective date of the CDC are valid and enforceable under the terms and conditions of the approved development agreements. Modifications to such PUDs may be proposed pursuant to the PUD amendment process.
2. A developer of a PUD approved prior to the effective date of the CDC may propose to create a new PUD pursuant to the PUD Regulations following the process and requirements set forth herein. If a new PUD is approved it shall automatically revoke and supersede the prior PUD.

17.4.12 **PLANNED UNIT DEVELOPMENT REGULATIONS**

A. Purpose and Intent

The purpose and intent of the Planned Unit Development (“PUD”) Regulations is to:

1. Permit variations from the strict application of ~~certain standards zoning, land use, supplementary and/or design regulations~~ of the CDC in order to allow for flexibility, creativity and innovation in land use planning and project design;
2. ~~Allow for a creative planning approach to the development and use of land and related physical facilities to produce a better development;~~
- 3.2. Provide for ~~community-public~~ benefits ~~in exchange for land use~~ variances and design variation consideration;
- 4.3. ~~Promote and implement the Comprehensive Plan; Comprehensive Plan.~~
5. ~~Promote more efficient use of land, public facilities and governmental services; and~~
6. ~~Encourage integrated planning in order to achieve the above purposes.~~

A. ~~Overview of the PUD Process~~

~~SPUD. A development application for a SPUD may be made for a single parcel of land or contiguous parcels of land controlled by a single landowner or by a group of landowners to be developed as a unified plan pursuant to the PUD Regulations.~~

~~MPUD. A development application for a MPUD may be made for either a single parcel of land, contiguous parcels of land or noncontiguous parcels of land controlled by a single landowner or by a group of landowners to be developed as a unified project.~~

6. ~~A PUD may be created in either of two ways: the Site-specific PUD Process (“SPUD”) or the Master PUD Process (“MPUD”).~~
 - e. ~~The SPUD results in approval of rezoning to a PUD district and a detailed set of design plans, a PUD development agreement, a subdivision (if needed), a density transfer (if needed), a site-specific development plan and a vested property right.~~
 - f.a. ~~The MPUD results in the approval of rezoning to a PUD district and a PUD development agreement that outlines permitted land use, density, maximum height and floor area, required community benefits and a vested right, but which requires a detailed final plan for individual phases prior to actual development.~~

B. General Standards

1. **PUD Application.** ~~A Planned Unit Development (“PUD”) application can be made for a single parcel of land, contiguous parcels of land or noncontiguous parcels of land, controlled by a single landowner or by a group of landowners to be developed as a unified plan (in the case of a single parcel) or unified project (in the case of two or more contiguous or noncontiguous parcels).~~
 - a. ~~The minimum density to be included in a PUD is ten (10) dwelling units. Commercial, public and other non-residential projects may also be proposed as part of a PUD.~~

2. **Authority to Initiate.** A development application for a PUD may be filed only by the owner(s) of fee title to all land to be included within such PUD or other person holding written consent thereto from the owner(s) of all land to be included in such PUD, or any combination thereof. No PUD may be approved without the written consent of the landowner(s) whose property is included in the PUD. Authority to initiate a PUD amendment may be by the owner(s) of fee title to at least sixty-seven percent (67%) of the real property within the PUD, an individual or entity having written permission of the property owner described above, or the Town.

3. **Minimum PUD Size.** There is no minimum land area or property size to be included in a PUD application.

4. **Concurrent Review.** The combination of application types into one submittal with concurrent review, is required as part of the PUD application process including and not limited to the following types of applications:

- a. **Rezone application.**
- b. **Density transfer application.**
- c. **Initial and Final Architectural Design Review applications,**
- d. **Subdivision application.**

The PUD process shall govern concurrent review of additional applications. The associated criteria for review for each type of application is required to be met consistent with the CDC, unless a land use variance or design variation is sought through the PUD process.

5. **Design Review.** The application may include the Initial and Final DRB Architectural Review as part of the PUD application. In lieu of the Initial and Final DRB Architectural Review approval, the minimum design requirements are listed below under Sketch PUD Plan. [insert cite here]

6. **Final PUD Plan.** The final PUD plan ~~shall~~ must be approved by Ordinance.

7. **Phasing.** An applicant can propose to phase the development of a PUD a project and if approved, the phasing terms would be outlined in the final PUD Agreement. Each phase of the development proposed shall be self-sufficient and not dependent upon later phases. Phases shall be structured so that the failure to develop subsequent phases shall not have any adverse impacts on the PUD, the surrounding environment, neighborhood and area. Town Council may prioritize -phasing of hot-beds and workforce housing -in advance of or concurrent with other zoning designations as deemed appropriate.

8. **PUD Development Agreement Required.**

- a. An application for approval of a final PUD plan shall include a proposed PUD development agreement setting forth, at a minimum, the permitted uses and accessory uses, density, maximum and average building height and massing, zoning designations, floor area, site coverage, CDC and Design Regulations variations, rezonings, density transfers, subdivisions, requirements for the construction of any public improvements and facilities, public benefits, timetable and schedule of development, phasing requirements and conditions, any proposed conditions of approval and a statement establishing a vested

property right.

- b. The final PUD development agreement shall be executed by the owner(s) of the property included in the PUD development application and the Town and shall be recorded with the San Miguel County Clerk and Recorder at the applicant's expense.

9. Public Improvements Agreement Required. A PUD developer shall be responsible for the construction of all infrastructure, public facilities and improvements that are necessary for the development of the PUD, are required as a condition of approval of the PUD and consistent with CDC Section 17.4.13.F.L. Public Improvements Policy.

10. Vested Property Rights. Approval of a PUD constitutes approval of a site-specific development plan and an associated vested property right. See CDC Section 17.4.17 Vested Property Rights. A separate vested property right application is not required through the PUD process. Extension of a Vested Property Right requires a class 4 design review application consistent with CDC Section 17.4.17.

11. Conflict. To the extent of conflict between these PUD Regulations and C.R.S. 29-67-101 et seq., these regulations shall supersede that statute.

C. **Criteria for Decision**

1. The following criteria shall be met for the review authority to approve a- PUD: rezoning to the PUD Zone District, along with the associated PUD development agreement:

- a. The proposed PUD is in general conformity~~ance~~ with the policies, principles and standards set forth in the Comprehensive Plan;
- b. The proposed PUD is consistent with the underlying zone district and zoning designations on the site or to be applied to the site unless the PUD is proposing a variation to such standards;
- c. The development proposed for the PUD represents a creative approach to the development, use of land and related facilities to produce a better development than would otherwise be possible; -and will provide amenities for residents of the PUD and the public in general;
- d. The proposed PUD is consistent with and furthers the PUD purposes and intent;
- e. The PUD meets the PUD general standards;
- f. The PUD provides adequate~~community~~ public benefits;
- g. Adequate public facilities and services are or will be available to serve the intended land uses;
- h. The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
- i. The proposed PUD meets all applicable Town regulations and standards unless a PUD is proposing a variation to such standards.

D. **PUD Community Public Benefits**

1. One or more of the following public benefits shall be considered in the evaluation of a PUD application:

- a. Hot bed zoning designations, commercial area, or workforce housing above the existing platted zoning designations or density assigned to the lot or lots.
- b. Attainment of principles, policies or actions envisioned in the Comprehensive Plan and/or public benefits as identified in the public benefits table in the Comprehensive Plan.
- c. Public improvements above what would otherwise be required with development consistent with the CDC.
- d. Public facilities offered and/or identified as a public benefits within the principles, policies or actions envisioned in the Comprehensive Plan.
- e. Land dedications or easements.
- f. Payment in lieu dedicated for town facilities, infrastructure, public parking or workforce housing.
- g. Open space or park dedications.
- h. The provision of onsite public parking.
- i. A deed restriction and/or management agreement committing to onsite short-term rental of condominium or lodge zoning designation units for short term bed base when not occupied by the owner.
- j. The provision of commercial space deed restricted for non-profit, public or community use.

~~7. The provision of hotbeds, commercial area, workforce housing or the attainment of other subarea plan principles, policies and actions on development parcels identified in a subarea plan development table shall not be considered community benefits as required by this section, and are instead required in order to achieve general conformance with the Comprehensive Plan.~~

8. E. **PUD Process.** The primary steps in the SPUD Process are as follows:

1. Conceptual PUD Plan review (DRB and Town Council). The Conceptual PUD Plan is a Class 4 application. Approval of the Conceptual PUD Plan constitutes the ability for the applicant to move to the next development review step. Conceptual approval will include, but not be limited to the following key elements of approval:

- i. Mass (height, site coverage)
 - ii. Scale (including zoning designations and density)
 - iii. Use (mix of use and site planning consistent with the Comprehensive Plan Eight Key Elements).
 - iv. Public Benefits
- a. The DRB shall focus its review and comments on design-related issues pursuant to the Design Regulations including mass and scale. The Town Council shall focus its review on the other issues associated with a PUD, such as mass and scale, public benefits, density, use and general conformance with the Comprehensive Plan.
 - b. Conceptual PUD Plan approval is effective for a period of twelve (12) months —from the date of approval, unless the Town Council, upon request of the —applicant, grants an extension of the approval.

2. Sketch PUD plan review. The Sketch PUD Plan is a Class 4 Application. Sketch PUD plan review consists of a preliminary review and recommendation to Town Council regarding the PUD application ~~PUD review~~ (DRB) and Sketch PUD review by the Town Council.

- a. The purpose of the Sketch PUD plan review is for the applicant to present its

development application to the DRB with Design Review Process plans that are designed/engineered solutions to the issues and concerns identified during the conceptual PUD stage and to address the criteria for decision.

- b. Sketch PUD approval authorizes the applicant to submit a final PUD application.
- c. Sketch PUD approval shall be effective for a period of twelve (12) months from the date of approval, unless the DRB, upon request of the applicant, grants an extension of the approval.
- d. This The Sketch PUD plan application may also include the initial architectural design review application. If the PUD plan application does not include the initial and final architectural review applications, then the following minimal design submittal requirements shall be met with the Sketch PUD plan:
 - i. Conceptual Site Plan. A conceptual site plan prepared by a qualified consultant (architect, engineer, planner, etc.) in accordance with the applicable regulations of the CDC (Design Regulations, Zoning Regulations, etc.) shall be submitted to show the proposed location of any roads, driveways, buildings, sidewalks, trails, parking areas, amenity areas, plaza areas, easements, or other intended or required development.
 - ii. Conceptual Building Elevations and Floorplans: Conceptual architectural plans prepared by a Colorado licensed architect designed in accordance with the applicable regulations of the CDC (Design Regulations, Zoning Regulations, etc.) including but not limited to building elevations and floorplans with a scale of 1/4" = 1' to 1/16" = 1' for larger scale projects.
 - iii. Computer Massing Model. A computer massing model with interactive viewing capability (360 degree rotation, fly by, etc.) showing the proposed buildings and surrounding development to scale so the land uses and the visual impacts of the project can be evaluated pursuant to the CDC Comprehensive Plan project standards.
 - iv. Conceptual Access Plan. A conceptual access plan providing access to and from the site of the rezoning shall be provided, including any needed infrastructure improvements as may be required by the Subdivision Regulations and the Road and Driveway Standards
- e. A draft PUD Agreement and draft ordinance are required to be submitted at this stage of Town review.
- e.f. The DRB and Town Council must approve the Sketch PUD plan in order for the applicant to continue to the Final PUD application. the next step.

3. Final Architectural Plan Review. Final architectural plan review by the Design Review Board – when applicable. The Final Architectural Plan Review is a Class 3 Application. The final DRB review must occur prior to the Final PUD plan review by Town Council.

4. Final PUD plan review rezoning ordinance and PUD development agreement (DRB and by the Town Council). The Final PUD Plan review is a Class 5 application.;

- a. Final PUD approval shall include approval of an ordinance and PUD

development agreement.

b. Final PUD approval shall remain in effect for three (3) years following the date of the Town Council ordinance approving the PUD, unless the time frame is extended by Town Council. The Town Council may approve a longer vesting period for a final SPUD based on unique circumstances or development objectives.

c. In the event a Final PUD plan is approved absent an initial and final architectural review approval, and was approved with the minimal design submittal requirements at sketch plan review, the applicant must submit a class 3 initial architectural and design review application during the PUD Plan approval period (3 year approval). The final architectural design review application will also need to be filed during the PUD plan approval period and will require a class 4 application. The DRB will review and render a decision on the final architectural design. The Town Council will also approve the final architectural review plan to assure that the final design plan is consistent with the Final PUD plan approval.

Challenge. The final PUD plan approval is subject to review under C.R.C.P. §106(a)(4), but not subject to referendum.

B.E. Planned Unit Development Amendment Process

a. 1. Minor Amendments. A Minor PUD amendment development application shall be processed as a class 1 development application. A proposed PUD amendment is considered minor, as determined by the Director of Community Development, if it meets the following criteria for decision:

i.a. The PUD amendment is not substantial and maintains the intent and integrity of the PUD development agreement and the associated plan sets, including but not limited to the required community benefits, or other public benefits or improvements outlined in the PUD development agreement;

ii.b. The PUD amendment does not change the density, zoning designation, increase the floor area or significantly alter any approved building scale and mass of the development; and

a.c. The PUD amendment will not result in a net decrease in the amount of open space nor result in a change in character of any of the open space proposed within the PUD.

b. 2. Major PUD Amendments. A PUD amendment that is not classified as a minor amendment is considered a major amendment. Major PUD amendments shall follow the same PUD process steps as creation of a new PUD.

e. Concurrent subdivision and density transfer, as applicable; and

d. Final PUD review.

f. The primary steps in the MPUD Process are:

h. Conceptual worksession (DRB and Town Council);

i. Outline MPUD rezoning ordinance and outline PUD development agreement (DRB and Town

Council);

- j. Final MPUD approval and final MPUD development agreement for all or portions of the outline MPUD (DRB and Town Council); and
- k. Subdivision and density transfer, as applicable.

1. PUD Development Agreement Required.

e. An application for approval of a final PUD plan shall include a proposed PUD development agreement setting forth, at a minimum, the permitted uses, density, maximum building height and massing, zoning designations, CDC and Design Regulations variations, rezonings, density transfers, subdivisions, requirements for the construction of any public improvements and facilities, timetable and schedule of development, phasing requirements and conditions, any proposed conditions of approval and a statement establishing a vested property right.

p. The final PUD development agreement and any other required legal instruments, including but not limited to subdivision plats, easements and maintenance agreements shall be executed by the owner(s) of the property included in the PUD development application, the Director of Community Development, the Town Manager and the Mayor and shall be recorded in the records of the San Miguel County Clerk and Recorder at the applicant's expense.

C. Applicability

The SPUD Process is available only for a single parcel of land or contiguous parcels of land, where the owner/owners of the site desire to develop the site as a unified development which achieves the goals of the Comprehensive Plan through the flexibility afforded by the SPUD Process. The MPUD Process is available only for a large phased PUD project where the property included in the MPUD development application need not be contiguous and the owner/owners desire to achieve the goals of the Comprehensive Plan through the flexibility afforded by the MPUD Process. To the extent of conflict between these PUD Regulations and C.R.S. 29-67-101 et seq., these regulations shall supersede that statute.

D. Review Process

1. SPUD:

a. **Step 1, Conceptual SPUD.** The conceptual SPUD is processed as a class 4 application:

- i. The purpose of the conceptual SPUD is to provide the DRB, the Town Council, the applicant and the public an opportunity to engage in an exploratory discussion of the SPUD development proposal (including proposed uses, density, maximum building height and floor area and community benefits), to raise issues and concerns and to examine alternative approaches to development.

— The DRB shall focus its review and comments on design-related issues pursuant to the Design Regulations:

- (a) The Town Council shall focus its review on the other issues associated with a SPUD, such as mass and scale, public benefits, density, and general conformance with the Comprehensive Plan.

- i. Conceptual SPUD approval authorizes the applicant to submit a sketch

PUD development application.

- Conceptual SPUD approval is effective for a period of twelve (12) months from the date of approval, unless the Town Council, upon request of the applicant, grants an extension of the approval.

a. — **Step 2, Sketch SPUD.** The sketch SPUD is processed as a class 3 application.

- ii. — The purpose of the sketch SPUD is for the applicant to present its development application to the DRB with Design Review Process plans that are designed/engineered solutions to the issues and concerns identified during the conceptual SPUD stage and to address the criteria for decision.
- ii. — Sketch SPUD approval authorizes the applicant to submit a final PUD application.
- ii. — Sketch SPUD approval shall be effective for a period of twelve (12) months from the date of approval, unless the DRB, upon request of the applicant, grants an extension of the approval.

a. — **Step 3, Final SPUD.** The final SPUD is processed as a class 4 application.

- ii. — The purpose of the final SPUD is for the applicant to address to the DRB and Town Council, in a detailed manner, all issues and concerns raised during the sketch PUD stage and to present the Final SPUD plans and associated documents for consideration.
 - (-) — The DRB shall focus its review and comments on design-related issues pursuant to the Design Regulations.
 - (-) — The Town Council shall consider all issues associated with the SPUD, such as mass and scale, public benefits, density, and general conformance with the Comprehensive Plan.
- ii. — Final SPUD approval shall include approval of an ordinance rezoning the property to a SPUD and approving the SPUD development agreement.
- ii. — Final SPUD approval shall remain in effect for three (3) years following the date of the Town Council ordinance approving the PUD; unless the time frame is extended by Town Council. The Town Council may approve a longer vesting period for a final SPUD based on unique circumstances or development objectives.

a. — **Concurrent Review.** Separate rezoning, density transfer and design review process development applications are not required to be submitted concurrent with a SPUD development application; such applications are considered a part of the overall SPUD development application process. If a subdivision is necessary for the proposed SPUD, a subdivision application shall be concurrently processed with a SPUD per the Subdivision Regulations.

a. — **Rezoning.** A SPUD application shall concurrently request to rezone to the PUD Zone District.

a. — **Final SPUD Development Agreement.**

- ii. — The final SPUD development application shall be accompanied by a proposed development agreement for consideration by Town Council. The SPUD development agreement shall include:

- Proposed, permitted and accessory uses;
- (a) — Density and zoning designations;
- (a) — Maximum and average building heights;
- (a) — Floor area;
- (a) — Permitted variations to the CDC;
- (a) — Massing as reflected in associated design review plans;
- (a) — Required hotbed mix (if any per the Comprehensive Plan);
- (a) — Maximum building height and floor area;
- (a) — Any project phasing; and,
- (g) — A list of community benefits for the entire SPUD agreement, which specifies which dedications, conditions, contributions etc. are to be made and the triggers of such benefits in connection with any phasing of the project. The development agreement must specify the individual trigger for the required conveyance or payment of the listed community benefit. The final SPUD development agreement shall also address providing the needed requirements for security and completion and warranty of improvements as for any development.

a. — **Vested Rights.** Approval of a SPUD plan application by the Town Council may constitute a site-specific development plan and a vested property right if a developer requests such a concurrent vested property rights development application.

1. — **MPUD Review Process:**

a. — **Step 1: Conceptual Worksession with Town Council.** A conceptual worksession application shall be submitted prior to submitting a MPUD development application to discuss overall proposed development, phasing, uses and densities and community benefits. No outline MPUD application may be submitted until the conceptual worksession has been completed.

a. — **Step 2: MPUD Development Application for Outline MPUD.** The outline MPUD shall be processed as a class 5 application, with the following additional requirements:

ii. — **Development Agreement.** The development application shall be accompanied by a proposed development agreement for consideration by Town Council. The MPUD development agreement shall include:

- (a) — Proposed, permitted and accessory uses;
- (a) — Density and zoning designations for each included parcel;
- (a) — Required hotbed mix (if any per the Comprehensive Plan);
- (a) — Maximum and average building heights;
- (a) — Floor area;
- (a) — Permitted variations to the CDC;
- (a) — The general building massing for each parcel include in the MPUD;
- (a) — Project phasing; and
- (a) — A list of community benefits for the entire MPUD shall be made a part of the development agreement, which specifies which dedications, conditions, etc. are to be made in connection with each parcel or phase of the project when brought in for final MPUD approval. The development

agreement must specify the individual trigger for the required conveyance or payment of the listed community benefit.

- **Density.** Allowed densities are approved subject to density transfer; applicant may choose to process a density transfer at this stage for all or a part of the entire property, which is the subject of the outline MPUD application.
- iii. — **Rezoning.** A MPUD application shall concurrently request to rezone to the PUD Zone District.
- iii. — **Application of Zoning Designations.** Zoning designations assigned to the property in a MPUD can occur at the outline MPUD stage or the final MPUD stage.
- iii. — **Subdivision.** Typically not addressed until final MPUD stage; however, applicant may choose to process a subdivision of all or a part of the entire property, which is the subject of the outline MPUD application.
- iii. — **Town Council Action.** Town Council approves, with or without conditions of approval, or denies. The form of approval is a rezoning ordinance and an outline MPUD development agreement that shall be recorded in the records of the San Miguel County Clerk and Recorder.
- iii. — **Vested Rights.** Approval of an outline MPUD plan application by the Town Council shall constitute a vested property right to the extent covered by the outline PUD development agreement, including zoning, permitted uses, density, maximum building height and floor area.
- iii. — **Concurrent Review.** The owner or developer of a MPUD may submit concurrent development applications for density transfer, subdivision and design review that are processed concurrently with the final MPUD per the applicable Development Review Procedures. If not, then the required outline MPUD development agreement shall include a requirement to submit such applications in the future in a logical, phased manner.

a. — **Step 3: Final MPUD Plan Stage.** The final MPUD plan development applications shall be processed as a class 4 application to allow individual parcels or phases of the outline MPUD to be brought forward for final approval and development, with the following additional requirements:

- iii. — **Final PUD Plan Development Applications.** The final MPUD plan stage shall include subdivision, density transfer and Design Review Process applications (as set forth below), to the extent such applications have not already been approved for the site/phase under consideration pursuant to the outline MPUD Process:
 - (-) — The Town Council's approval of final MPUD plan development applications shall be by resolution recorded in the records of the San Miguel County Clerk and Recorder.
 - (-) — In the event there is a conflict between the Development Review Procedures, regarding PUD development applications and the PUD Regulations, the PUD Regulations shall prevail.
- iii. — **Final MPUD Development Agreement.** This agreement is in addition to and supplements the outline MPUD development

agreement, providing the needed requirements for security and completion and warranty of improvements as for any development. This agreement shall repeat the time frame for actual conveyance, construction or payment, as appropriate, and of the relevant community benefits for this phase or parcel, as originally set forth in the development agreement executed as a condition of outline MPUD approval.

- **Vested Rights.** Approval of a final PUD plan application by the Town Council shall constitute a site-specific development plan and a vested property right and replaces the vesting period given at the outline stage with respect to that phase, to the extent covered by the PUD development agreement, including zoning, permitted uses, density and building height and floor area.
- iv. — **Challenge.** The final MUPD plan approval is subject to review under C.R.C.P. §106(a)(4), but not subject to referendum.

D.A. — Criteria for Decision

The following criteria shall be met for the review authority to approve a rezoning to the PUD Zone District, along with the associated PUD development agreement:

- 1. — The proposed PUD is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan;
- 1. — The proposed PUD is consistent with the underlying zone district and zoning designations on the site or to be applied to the site unless the PUD is proposing a variation to such standards;
- 1. — The development proposed for the PUD represents a creative approach to the development, use of land and related facilities to produce a better development than would otherwise be possible and will provide amenities for residents of the PUD and the public in general;
- 1. — The proposed PUD is consistent with and furthers the PUD purposes and intent;
- 1. — The PUD meets the PUD general standards;
- 1. — The PUD provides adequate community benefits;
- 1. — Adequate public facilities and services are or will be available to serve the intended land uses;
- 1. — The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
- 1. — The proposed PUD meets all applicable Town regulations and standards unless a PUD is proposing a variation to such standards.

D. — PUD Relationship to the CDC

The development regulations and standards contained in an approved PUD and its associated development agreement shall supersede the provisions of the CDC to the extent of conflict. Where an approved PUD development agreement does not address specific CDC standards, the specific provisions contained in the CDC shall apply as determined by the Planning Division, subject to a final determination by the relevant review authority. In making this determination, the Planning Division and review authority shall consider the original intent of the PUD, the type of use, intensity of use, type of structure and similar factors to identify the situation covered by the CDC closest in comparison to the situation in the PUD. Notwithstanding the foregoing, when possible, the PUD and the CDC should be read to be consistent with one another.

D. — PUD Community Benefits

~~2. — One or more of the following community benefits shall be provided in determining whether any of the CDC requirements should be varied or if the rezoning to the PUD Zone District and concurrent (for SPUD) or subsequent (for MPUD) rezoning, subdivision, or density transfer request should be granted for a PUD:~~

~~Development of, or a contribution to, the development of public benefits or public improvements, or the attainment of principles, policies or actions envisioned in the Comprehensive Plan (unless prohibited under number 2 below), such as benefits identified in the public benefit table.~~

~~2. — The provision of hotbeds, commercial area, workforce housing or the attainment of other subarea plan principles, policies and actions on development parcels identified in a subarea plan development table shall not be considered community benefits as required by this section, and are instead required in order to achieve general conformance with the Comprehensive Plan.~~

~~D. — Comprehensive Plan Project Standards~~

~~Each final SPUD or MPUD plan shall include specific criteria and requirements to satisfy the following Comprehensive Plan project standards:~~

~~2. — Visual impacts shall be minimized and mitigated to the extent practical, while also providing the targeted density identified in each subarea plan development table. It is understood that visual impacts will occur with development.~~

~~2. — Appropriate scale and mass that fits the site(s) under review shall be provided.~~

~~2. — Environmental and geotechnical impacts shall be avoided, minimized and mitigated, to the extent practical, consistent with the Comprehensive Plan, while also providing the target density identified in each subarea plan development table.~~

~~2. — Site-specific issues such as, but not limited to the location of trash facilities, grease trap cleanouts, restaurant vents and access points shall be addressed to the satisfaction of the Town.~~

~~2. — The skier experience shall not be adversely affected, and any ski run width reductions or grade changes shall be within industry standards.~~

~~D. — General Standards~~

~~2. — **Authority to Initiate.** A development application for a PUD may be filed only by the owner(s) of fee title to all land to be included within such PUD or other person holding written consent thereto from the owner(s) of all land to be included in such PUD, or any combination thereof. No PUD may be approved without the written consent of the landowner(s) whose property is included in the PUD.~~

~~2. — **Eligible Property.**~~

~~g. — **SPUD.** A development application for a SPUD may be made for a single parcel of land or contiguous parcels of land controlled by a single landowner or by a group of landowners to be developed as a unified plan pursuant to the PUD Regulations.~~

~~h. — **MPUD.** A development application for a MPUD may be made for either a single parcel of land, contiguous parcels of land or noncontiguous parcels of land controlled by a single landowner or by a group of landowners to be developed as a unified project.~~

~~2. — **Minimum PUD Size.** There is no minimum land area or property size to be included in a SPUD or MPUD application.~~

~~2. — **Minimum Density.**~~

m. — **SPUD.** The minimum density to be included in a SPUD is ten (10) dwelling units. Commercial, public and other non-residential projects may also be proposed as part of an SPUD.
n. — **MPUD.** The minimum density to be included in a MPUD is fifty (50) dwelling units. Commercial, public and other non-residential projects may also be proposed as part of an MPUD.

2. — **Rezoning Ordinance Required.** Any PUD application shall be required to request rezoning to the PUD Zone District as a part of the PUD Process. The PUD development review process is a Rezoning Process, and a concurrent rezoning development application shall not be required. Because a PUD results in a rezoning to the PUD Zone District, any PUD approval shall be by ordinance.

r. — All ordinances for rezonings that change the zone district to PUD shall be accompanied by a map that shows the new zoning and the boundaries of such district. A PUD development agreement shall not become effective or be recorded until thirty (30) days after the date of the ordinance approving the same.

PUD Development Agreement Required.

An application for approval of a final PUD plan shall include a proposed PUD development agreement setting forth, at a minimum, the permitted uses, density, maximum building height and massing, zoning designations, CDC and Design Regulations variations, rezonings, density transfers, subdivisions, requirements for the construction of any public improvements and facilities, timetable and schedule of development, phasing requirements and conditions, any proposed conditions of approval and a statement establishing a vested property right.

— The final PUD development agreement and any other required legal instruments, including but not limited to subdivision plats, easements and maintenance agreements shall be executed by the owner(s) of the property included in the PUD development application, the Director of Community Development, the Town Manager and the Mayor and shall be recorded in the records of the San Miguel County Clerk and Recorder at the applicant's expense.
Phasing. Each phase (if any) of the development proposed for the PUD shall be self-sufficient and not dependent upon later phases. Phases shall be structured so that the failure to develop subsequent phases shall not have any adverse impacts on the PUD, the surrounding environment, neighborhood and area.

To the extent of conflict between these PUD Regulations and C.R.S. 29-67-101 et seq., these regulations shall supersede that statute.

s.

Prior-Approved PUDs.

— PUDs approved prior to the effective date of the CDC are valid and enforceable under the terms and conditions of the approved development agreements. Modifications to such PUDs may be proposed pursuant to the PUD amendment process.

— A developer of a PUD approved prior to the effective date of the CDC may propose to create a new PUD pursuant to the PUD Regulations following the process and requirements set forth herein.

3. — **Density Transfer.** An increase in density shall require the transfer of density to the property from the density bank or other lot(s) within the town boundaries, except for the creation of additional workforce housing, subject to the workforce housing restriction.

— For SPUD, a separate density transfer development application is not required.

— For outline MPUD, the PUD development agreement shall require a separate density transfer application unless a concurrent density transfer is requested at the outline MPUD stage.

~~a. — All density transfer requests shall conform to the Density Limitation and the CDC.~~

~~**Landscaping and Buffering.** The landscaping and public spaces proposed for the PUD shall provide buffering of uses from one another to minimize adverse impacts and shall create attractive public spaces consistent with the character of the surrounding environment, neighborhood and area.~~

~~4. — **Infrastructure.** The development proposed for the PUD shall include sufficient infrastructure, including but not limited to vehicular and pedestrian access, mass transit connections, parking, traffic circulation, fire access, water, sewer and other utilities.~~

~~5. — **Phasing.** Each phase (if any) of the development proposed for the PUD shall be self-sufficient and not dependent upon later phases. Phases shall be structured so that the failure to develop subsequent phases shall not have any adverse impacts on the PUD, the surrounding environment, neighborhood and area.~~

~~D. — Vested Rights~~

~~5. — The PUD Zone District applied to property included in a PUD shall be valid in perpetuity unless the Town Council rezones such land to another zone district, upon application by the owner or on Town Council's own motion.~~

~~5. — The PUD development agreement shall establish a vested property right to allow for development envisioned in the PUD development agreement as provided for in the PUD Regulations.~~

~~5. — Upon the expiration of the vesting period set forth in the relevant PUD development agreement, the agreement shall require the owner(s) or developer(s) to submit a new SPUD or MPUD development application, as applicable, in order to proceed with development.~~

~~D. — Guarantee of Public Improvements~~

~~A PUD developer shall be responsible for the construction of all infrastructure, public facilities and improvements that are necessary for the development of the PUD or that are required as a condition of approval of the PUD or by the CDC. The developer shall also be responsible for entering into an improvements agreement for the construction of public improvements in a form and amount satisfactory to the Town. The guarantee of public improvements shall be contained in the PUD development agreement and be in general conformance with the public improvements policy set forth in the Subdivision Regulations.~~

E.F. **Enforcement of the PUD Plan**

1. **By the Town.** The PUD development agreement shall run with and be a burden upon the land to which it applies. The rights and obligations set forth in the PUD development agreement shall run in favor of the Town and shall be enforceable at law or in equity by the Town without limitation on any power or regulation otherwise granted by law.
2. **By Residents, Occupants and Owners.** Those provisions of the PUD plan expressly running in favor of the residents, occupants and owners of the PUD, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by such residents, occupants or owners acting individually, jointly or through an organization designated in the PUD plan to act on their behalf.
3. **Relinquishment of Resident and Owner Rights.** Residents and owners in a PUD may, to the extent and in the manner expressly authorized by the provisions of the PUD, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the Town to enforce the provisions of the plan.

G. Revocation or Modification of a PUD by the Town.

- ~~5.~~ 1. The PUD development agreement shall provide for the right of the Town to modify or revoke a PUD for failure to comply with specific PUD requirements or without cause after the expiration of the vested rights for a PUD which has not commenced construction.
- a. ~~2.~~ In order to modify or revoke a PUD the Town shall follow the same Development Review Procedures required to create a PUD as outlined in the PUD Regulations. In order to revoke a PUD, the Town shall hold one Town Council worksession, one preliminary revocation public meeting, and one final revocation Town Council public meeting .
- b. 3. The owner(s) of property within the PUD boundary shall be notified of any modification, revocation or rezoning initiated by the Town.
4. Any Town Council action modifying or to revoking a PUD will result in the reversion of the subject property to the land use in effect prior to the PUD approval including and not limited to the former zoning, density, subdivision and platting. The Town Council may elect to exempt the reversion of platting for good cause and/or for reasons such as land exchanges, or land conveyance within or outside of the PUD boundaries that were contemplated by the original PUD approval. leave the PUD Zone District, density and zoning designations on a site, nullify the PUD development agreement and shall require the submission of a new PUD development application to allow any further development. The modification or revocation shall consider the effect of the modification or revocation on the completed development areas within the PUD which have been issued a certificate of occupancy and sold to a bonafide third party purchaser who is not affiliated with the original applicant or developer.
5. Should the Town initiates a modification to a PUD, for development of only a portion of, or lack of fully executing the terms of the PUD for failure to comply with specific requirements of a PUD , the Major PUD amendment process shall be followed.
6. In order to revoke a PUD, the Town shall hold one Town Council worksession, one preliminary revocation public meeting, and one final revocation Town Council public meeting all of which shall be noticed in accordance with the notice requirements for class 4 applications even though the revocation process is not a class 4 application.

H. Expiration of a PUD.

1. Expiration of a Final PUD approval shall result in the reversion of the subject property to the land use in effect prior to the PUD approval including and not limited to the former zoning, density, subdivision and platting. The Town Council could may exempt the reversion of platting for good cause and/or for reasons such as land exchange, or land conveyance within or outside of the PUD boundaries. An exemption from the reversion of platting can be contemplated as part of the PUD approval, amendment or modification process for good cause or for reasons set forth in this section. agreement, or contemplated during a PUD modification or revocation process. Exemptions to platting for new, amended or modified PUD's shall be documented in the PUD Agreement.
Any Town Council action modifying or revoking a PUD development agreement will leave the PUD Zone District, density and zoning designations on a site, nullify the PUD

~~development agreement and shall require the submission of a new PUD development application to allow any further development. The modification or revocation shall consider the effect of the modification or revocation on the completed development areas within the PUD which have been issued a certificate of occupancy and sold to a bonafide third party purchaser who is not affiliated with the original applicant or developer.~~

I. Prior-Approved PUDs.

1. PUDs approved prior to the effective date of the CDC are valid and enforceable under the terms and conditions of the approved development agreements. Modifications to such PUDs may be proposed pursuant to the PUD amendment process.

6.2. A developer of a PUD approved prior to the effective date of the CDC may propose to create a new PUD pursuant to the PUD Regulations following the process and requirements set forth herein. If a new PUD is approved it This process would shall automatically revoke and supersede the prior PUD, and apply a new PUD onto the property/ies consistent with the PUD general standards and criteria for review.

F. Review Process

~~a. Minor Amendments. Minor PUD amendment development applications shall be processed as class 1 development applications.~~

~~b. Major Amendments. Major PUD amendment development applications shall be processed as class 4 development applications.~~

2. Authority to Initiate a PUD Amendment

~~a. Amendments to a PUD plan may be initiated by any of the following persons or entities acting alone or together:~~

~~i. The owners of fee title to at least sixty-seven percent (67%) of the real property within the PUD;~~

~~ii. An individual or entity having written permission of the property owner(s) described in section 1.1 above; or~~

~~iii. The Town.~~

~~3. Criteria for Decision. The criteria for decision for a PUD amendment are the same as for the creation of a PUD.~~

17.3.15 HOTBED DEVELOPMENT AND CONDOMINIUM-HOTEL REGULATIONS

- A.** Any rezoning, subdivision, density transfer, PUD (~~SPUD or MPUD~~) or PUD amendment process and related Design Review Process development applications shall be in general conformance with the Comprehensive Plan's hotbed policies and the hotbed policies of the CDC, including the Condominium-hotel Regulations applications on properties designated by the Comprehensive Plan as a flag hotel site, shall conform to the Condominium Hotel Regulations set forth in the CDC. ~~—~~
- B.** ~~Any development application on a site identified as a flag hotel site in a subarea plan's development table shall include a rezoning development application to rezone such site to the PUD Zone District to ensure the provision of hotbed development as envisioned in the Comprehensive Plan pursuant to the Condominium-hotel Regulations and to allow variations to the requirements of the CDC to strive to achieve the density and building heights listed in each subarea plan's development table consistent with the policies set forth in the CDC.~~
- C.B.** Other lots not identified by the Comprehensive Plan for a flag hotel may submit a rezoning development application following the class 4 development application process to apply the Condominium-hotel Regulations to a lot as an overlay zoning requirement upon a property.
- 1.** The development application for a rezoning shall include the appropriate homeowners association consent and a copy of resolution of the homeowners association consenting to such application.
- D.C.** The Condominium-hotel Regulations are set forth in the supplementary regulation of the CDC and are considered a part of these Zoning and Land Use Regulations.

17.6.3 CONDOMINIUM-HOTEL REGULATIONS

A. Purpose and Intent

The purpose of this section is to establish polices and requirements for condominium-hotels in order to provide for hotbed development as envisioned in the Comprehensive Plan and as required by the zoning regulations. In addition, an existing property may request the application of the Condominium-hotel Regulations as a zoning overlay as outlined in Chapter 3.

B. Applicability

The Condominium-Hotel Regulations are applicable to any developer who ~~proposes~~ applies for a to ~~rezone, subdivision, density transfer, PUD (SPUD or MPUD) or PUD amendments for prior approved but unbuilt PUD's, or applications on a rezone~~ a site identified in the Comprehensive Plan as a flag hotel site in a subarea plan's development table. The Condominium-hotel Regulations may also be applied at the request of an applicant absent identification as a flag hotel site.

C. Review Process

Hotbed development and condominium-hotel development are evaluated pursuant to any applicant which applies for a rezone, subdivision, density transfer, PUD (SPUD or MPUD) or PUD amendment process development applications on any site identified in the Comprehensive Plan as a flag hotel site. The Condominium-hotel Regulations are implemented through the applicable review process-PUD Process outlined in the PUD Regulations.

D. General Standards for Review

1. ~~Hotbed development on a flagship hotel site is created when the following requirements are met:~~
 - a. ~~The site is rezoned to the PUD Zone District;~~
 - b. ~~The target density of the subarea plan's development table as envisioned by the Comprehensive Plan is met, with the hotbed mix and average room size as set forth in Table 6-1, with forty percent (40%) lodge units and forty percent (40%) efficiency lodge units.~~
 - c. ~~The Town Council may approve another configuration that differs from that shown in Table 6-1 if it finds that the project will still meet the target density in the applicable subarea plan development table and hotbeds will be provided. In no event should the amount of net floor area dedicated to condominium units be over twenty percent (20%) of the net floor area of the full development.~~
 - d. ~~The condominium hotel will be restricted by a development agreement that can be enforced by the Town with such agreement including key requirements of the Condominium hotel Regulations.~~

Table 6-1, Required Unit Configuration for Condominium Hotels

Zoning Designation of Unit	Approximate Average Unit Size	Building Efficiency	Maximum Net Floor Area By Unit Type
Condominium	1,250 sq. ft.	70%	20%
Lodge	800 sq. ft.	70%	40%

Efficiency Lodge	450 sq. ft.	55%	40%
------------------	-------------	-----	-----

2.1. Hotbed development on each flagship hotel site or any other site as requested by an owner will be ensured by the following condominium-hotel requirements, which are a part of the Town's Zoning Regulations for a hotbed development:

a. Hotel Operator Requirements:

- i. Each condominium-hotel project shall be ~~either: (i)~~ operated and managed by, ~~and/or (ii) an franchised-as-an-~~ internationally or nationally recognized full service hotel operator/brand ~~(as applicable)~~ with significant experience in full service operations with existing broad marketing distribution capabilities (hotel operator) for the life of the condominium-hotel.
- ii. The hotel operator shall be capable of operating the project in a manner consistent with hotel standards as set forth below. ~~thea project operational standards.~~ The hotel operator shall have a high level of name, brand awareness and marketing breadth with the general public and offer customers incentives such as a customer loyalty program.
- ~~iii.~~ ~~Examples of internationally or nationally recognized full service hotel operators and brands include (but are not limited to) the following: Westin, Marriott (all full service brands), Hyatt (all full service brands), Hilton (all full service brands, including Waldorf Astoria), Fairmont, Intercontinental (all full service brands), Morgans Hotel Group, Wyndham, Le Meridien, Luxury Collection (Starwood) and similarly styled operators, as recognized by accepted industry standards and brands from time to time.~~
- ~~iv.~~iii. Prior to and as a condition of the issuance of a building permit, the developer of the condominium-hotel will notify the Director of Community Development of the proposed hotel operator which notice shall contain written confirmation from the hotel operator.
- ~~v.~~iv. The Town Council shall review and take action on the proposed hotel operator at the next available meeting where the proposal can be placed on the agenda. In no event will a decision be rendered more than forty-five (45) days from the date of the developer's notice to the Town Council.
- ~~vi.~~v. The Town Council action on a proposed hotel operator shall be based on the standards and guidelines for the hotel operator as set forth in this section by motion and recorded in the official minutes.
- ~~vii.~~vi. The Director of Community Development shall provide a written notice of the Council's action and the grounds for such determination within seven (7) business days of the date of the Council meeting where action was taken.
- ~~viii.~~vii. After the Town Council's decision on the hotel operator, the developer may meet with the Town Council to discuss and attempt to resolve the Town Council's rejection of any proposed hotel operator.
- ~~ix.~~viii. The hotel operator may be changed by the condominium-hotel homeowners association from time to time. In the event that the developer or homeowners association elects to terminate the approved hotel operator at any time, the developer or homeowners association shall provide the Director of Community Development with: (a) thirty

(30) days' prior written notice of such termination including the reasons for such termination ~~(which shall be held in confidence by the Town)~~; and (b) within one hundred eighty (180) days of termination of the hotel operator, notice of the replacement hotel operator, which notice shall include a letter of intent from the replacement hotel operator. The Town shall promptly provide notice of acceptance or non-acceptance within forty-five (45) days of receipt of the notice and the failure to provide a response shall be deemed to be an approval of the replacement hotel operator by the Town. In considering the acceptability of the replacement hotel operator, the developer and Town shall adhere to the standards and guidelines of this section.

~~xix.~~ In the event of a dispute between the developer or the homeowners association and the Town concerning the adequacy of the designation of a hotel operator consistent with this section, the parties shall mutually identify a qualified, neutral third-party recognized as an authority in the hospitality industry to mediate and resolve this dispute through a binding mediation process.

b. Hotel Standards:

~~xi.i.~~ The condominium-hotel project shall provide certain full service amenities, facilities and services within the project, which are intended to help promote hotbed development for lodge and efficiency lodge units, such as a restaurant, bar, spa, concierge and similar full service hotel/lodging amenities. The provision of full service hotel/lodging amenities will be reflected in the development agreement with the Town.

~~xii.ii.~~ Each lodge and efficiency lodge unit shall be incorporated in a condominium-hotel by the creation of a condominium community and each lodge and efficiency lodge unit and the condominium-hotel will meet the following conditions, restrictions and requirements, which shall be set forth in a development agreement with the Town and the condominium's declaration:

- (a) The hotel operator shall be responsible for the implementation, management and operation ~~of the condominium-hotel, including the national and international marketing of each of the condominium-hotel units (management and marketing program). The management and marketing program is intended to manage, market and promote the condominium-hotel project and the use and occupancy of the associated lodge and efficiency lodge units in the condominium-hotel as accommodation styled rooms. The management and marketing program is further intended to provide for the use and rentals of all lodge and efficiency lodge units, which are required to be made available to the general public as hotel-type lodging units except when the condominium-hotel units are occupied by an owner as allowed by this section.~~ an onsite rental management program, which shall include the national and international marketing of the ~~condominium-hotel for transient guest occupancy ("Hotel Rental Program"). The Hotel Rental Program is intended to manage market and promote the hotel and the use and occupancy of the condominium-hotel and the use and occupancy of the hotel,~~

lodge and efficiency lodge units within the condominium-hotel as accommodation styled rooms. The Hotel Rental Program is further intended to provide for the use and rental of such units to the general public except when such units are occupied by the owners of such units (subject to occupancy limits).

xiii.(b) Condominium units in a condominium-hotel may also voluntarily be put into the accommodations rental pool and the management and marketing program.

xiv.(c) Each lodge and efficiency lodge unit in the condominium-hotel shall be included in the hotel operator's management and marketing program and managed by the hotel operator. A separate unit management agreement for each unit must be executed at the time of closing on a lodge and efficiency lodge unit, consistent with this section and the required development agreement. In accordance with the Zoning Designations under the CDC, efficiency lodge units and hotel units and hotel efficiency units shall not be the primary residence of the owner of such units and when not in use by the owner of the unit, such Units shall be made available for short-term transient rental occupancy and accommodations through the Hotel Rental Program a Qualified Rental Program (defined below) or a direct rental by the owner. Such units shall not be rented or occupied on a long-term basis. A long-term basis shall mean any period of thirty (30) or more consecutive days or ninety (90) or more days in a calendar year by an occupant including the owner.

xv. The lodge and efficiency lodge units shall not be the primary residence of the owner.

(a) When not in use by the owner of a lodge or efficiency lodge unit, such units shall be included in the condominium-hotel's accommodations rental pool and available for rental occupancy and accommodations by guests.

(b) The owner of a lodge or efficiency lodge shall provide lead-time on notice of occupancy to the hotel operator with February 28th as the deadline for providing intended summer occupancy dates and September 30th for winter occupancy dates.

(c) The owner may use their lodge or efficiency lodge unit at other times without any lead-time notice if the unit is not reserved for lodging purposes.

(d) With respect to each lodge and efficiency lodge unit, the restrictions set forth in this section shall be reflected in a separate deed restriction for each lodge and efficiency lodge unit so that the owner of each unit is affirmatively stating that their unit(s) will be available to the hotel operator and their for transient lodging to the general public as set forth herein. paying guests when not in use by the owner in accordance with the requirements of this section.

(e) Qualified Rental Program shall be any third party rental management service and program which can achieve the Hotel Operator Standards and Hotel Standards.

(e) All unit owners will be required to obtain and maintain all business license(s) which allow for the rental of units as required by the Town of Mountain Village, and to pay any and all associated transient room and lodging taxes. Unit owners who participate in the Hotel Rental Program are not required to obtain a separate business license(s).

xvi. The hotel operator and not the individual owners of lodge and efficiency lodge units will establish maximum room rental rates and yield manage the inventory, other than during owner's allowed usage periods.

(f) Parking spaces in the condominium-hotel shall meet the Parking Regulations. An owner of a unit in a condominium-hotel shall not be allowed to park or store a vehicle in a parking space during times that the owner is not occupying their unit. All parking spaces allocated to all units subject to these condominium hotel regulations shall be either limited or general common elements to the community and managed either through valet parking or another appropriate mechanism by the hotel operator or the community home-owners association for the use of the occupants of such units.

c. Hotel Operator Exclusive Services.

i. In order to ensure compliance with the Condominium-Hotel Regulations contained herein, the Hotel Operator must maintain control over the operations, services and facilities within a condominium hotel community. Therefore, the Hotel Operator shall be the sole provider of the following services to all efficiency lodge, hotel and hotel efficiency units within the community:

(a) Accepting reservations by, from and through any unit owner and or its agents, including any Qualified Rental Program for the use and occupancy of the Unit.

(b) Establish and enforce check in procedures for all occupants.

(c) Housekeeping and cleaning services necessary or desired for the units.

(d) All routine repairs and maintenance services necessary or desired for the units.

(e) Valet parking services (if applicable)

(f) Manage and maintain the unit electronic locking system, and all associated keys, including issuance and replacement of room keys.

(g) Setting and collection of all service fees for the provisions of these exclusive services.

(h) Make arrangements for or cause to be arranged, internet service and basic television service to the unit. No separate internet, cable or satellite television services may be provided to the units.

(i) Acquire and maintain a liquor license allowing the Hotel Operator to (i) operate mini-bars in the unit and (ii) provide room service to the units including the sale and dispensing of alcoholic beverages and food to the units.

d. Reporting Requirements:

- i. The Hotel Operator shall be required to report to the Town on an annual basis by no later than February 28th of each year which report shall include the following information:
 - a. The number of efficiency lodge, hotel and hotel efficiency units sold to third parties.
 - b. The number of such units sold to third parties participating in the Hotel Rental Program
 - c. The number of such units utilizing a third party Qualified Rental Program and the name of each program.
 - d. The number of such units directly rented by owners of the units.
 - e. Occupancy rates for the previous fiscal year broken down by participants in the Hotel Rental Program, the Qualified Rental Program and the direct owner rentals.

e. Unit Configuration:

xviii.i. A condominium-hotel project or other project with lodge and efficiency lodge units may consist of lodge and efficiency lodge units that are connected by lock-off doors between the individual units. When such a configuration of lodge and efficiency lodge units is desired in a lock-off configuration, the following requirements will be met:

- (a) Doors that lock-off one unit from another unit shall be maintained as a separate, lockable door, and doors or locks shall not be removed for any reason;
- (b) Each unit shall maintain a separately keyed entry from the other attached unit;
- (c) Each unit shall be shown as a separate condominium unit on the condominium map with an owner allowed to own up to a maximum of three (3) units in a lock-off unit configuration;
- (d) Each lock-off unit shall maintain a separate, unique unit designation in the common hallway; and
- (e) Each unit shall contain a freestanding bed that does not include a sleeper sofa or Murphy bed.

xix.ii. A block of lodge and efficiency lodge units may be owned by one (1) owner provided such units meet the requirements of this section.

xx.iii. Alteration or elimination of any walls shown on the condominium map, or changes to the individual rooms that eliminate the number of beds approved by the Town are prohibited unless such changes are reviewed and approved by the Town in accordance with these regulations and provided that such change will not reduce the number of beds available in the condominium-hotel project.

xxi.iv. The developer, in consultation with the Town-approved hotel operator, will establish uniform furniture, fixtures and equipment packages that will be provided for each of the lodge and efficiency lodge units exclusive of the condominium units. The furniture, fixture and

equipment packages will be developed to insure a quality of decor, furniture, furnishings and appliances suitable to meet the condominium-hotel operational standards, which may include without limitation appropriate and suitable fixtures (including bathroom fixtures), cabinetry, carpeting, floor covering, paint, wall covering, furniture (including built-in furniture, if any), lighting, mirrors, decor items, color television, clock, radio, drapes, shades and other window treatments and any and all other fixtures, equipment, utilities and decorative accessories within the units. The design and content of the furniture, fixture and equipment packages may be offered in different variations and themes intended to achieve the condominium-hotel operational standards.

~~“Project operational standards” means the standards for operating the project as determined by the hotel operator, in consultation with the developer and project homeowners association, consistent with the terms and conditions of the Town approvals and the operating standards customarily followed by the hotel operator for similar projects managed by hotel operator located in mountain resort locations which are intended to promote a high standard of quality. The project operational standards are intended to be followed for purposes of promoting the use and operation of the project as a full-service hotel within the hotel facilities unit and those residential condominium units participating in the rental management program. When developing and implementing the project operational standards, the hotel operator shall exercise its good faith, commercially reasonable judgment and adhere to industry standards for similar projects located in mountain resort locations as well as the actual operational needs of the hotel and/or hotel guest. It is recognized and agreed that the project operational standards may vary from time to time given due consideration to winter periods, summer periods and shoulder seasons between winter and summer periods.~~

- f. Development Agreement. The condominium-hotel will be restricted by a development agreement that can be enforced by the Town with such agreement including all requirements of the Condominium-hotel Regulations.

We recommend the addition of the following definition of General Conformance in the CDC Definition section:

General Conformance: When the term “general conformance” is used, it shall mean compliance with the overall goals and policies of the comprehensive plan, but need not require strict adherence to every provision, table, chart or detail of the comprehensive plan.

We recommend editing the definition of General Conformance in the Comprehensive Plan with the recommended definition above. Below is the existing definition found only in the Comprehensive Plan:

General Conformance: a suggested review criteria of the Comprehensive Plan that is intended to be applied to certain development review applications such as rezoning, density transfers and subdivisions. When a development application is evaluated regarding its general conformance with the Comprehensive Plan, the Town Council and Design Review Board (DRB) should evaluate the application against the entirety of the goals, polices and actions contained in the Comprehensive Plan and need not require compliance with every provision contained therein. Nonetheless, the Town Council and DRB may require that an applicant satisfy any particular goal, action or policy if such compliance is deemed necessary to attain general conformance.