



REGULAR PLANNING COMMISSION MEETING AGENDA
Wednesday, May 24, 2023 5:00 PM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.

The Montrose Planning Commission is pleased to have residents of the community take time to attend Planning Commission Meetings. We encourage your attendance and participation. Individuals wishing to be heard during public hearing proceedings are encouraged to be prepared and will generally be limited to three minutes to allow everyone the opportunity to be heard. The 11:00 p.m. rule will be enforced in accordance with City of Montrose Regulations (Sec. 7-15-2).

Additional written comments are welcome. If you would like to comment on an agenda item, please email planningmail@cityofmontrose.org. Written comments must be received by noon one week prior to the meeting in order to be included in the Planning Commission packet. After that deadline, comments received by noon the day prior to the meeting will be distributed to the Planning Commission on the meeting day.

Hearing assistance devices are available for public use. Please let us know if you need accommodation. The City also offers interpretation for Spanish speakers. In order to allow time to book this resource, please email planningmail@ci.montrose.co.us at least three days before the meeting.

- 1) Planning Commission meeting called to order
- 2) Roll call by the Planning Commission Chair
- 3) Approval of Minutes of the May 10, 2023 Planning Commission meeting
- 4) Additions or Deletions
- 5) **ALPINE FLORAL CONDITIONAL USE PERMIT** This application is a request to allow a retail business within the "OR" Office-Residential District at 1301 N 2nd St. Under the "OR" zoning regulations, retail sales and services establishments which cater to the general shopping public are considered a conditional use. The applicant is Alpine Floral, Inc.
- 6) Other Business
- 7) Next Meeting will be June 14, 2023
- 8) Motion to Adjourn



**AGENDA DE REUNIONES ORDINARIAS DE LA COMISION
DE PLANEACION**

Miércoles 24 de mayo del 2023 5:00 PM

Despachos del Ayuntamiento, Edificio Cívico Elks - Ave. Cascada Sur #107.

La Comisión de Planeación de Montrose se complace en que los residentes de la comunidad se tomen el tiempo para asistir a las reuniones de la Comisión de Planeación. Alentamos su asistencia y participación. Se alienta a las personas que deseen ser escuchadas durante los procedimientos de audiencia pública a estar preparadas y, por lo general, se limitarán a tres minutos para permitir que todos tengan la oportunidad de ser escuchados. La regla de las 11:00 p.m. se aplicará de acuerdo con el reglamento de la Ciudad de Montrose (Sec. 7-15-2).

Los comentarios adicionales por escrito son bienvenidos. Si desea comentar sobre un tema de la agenda, envíe un correo electrónico a: planningmail@cityofmontrose.org. Los comentarios por escrito deben recibirse antes del mediodía una semana antes de la reunión para ser incluidos en el paquete de la Comisión de Planeación. Después de ese plazo, los comentarios recibidos antes del mediodía del día anterior a la reunión se distribuirán a la Comisión de Planeación el día de la reunión.

Los dispositivos de asistencia auditiva están disponibles para uso del público. Por favor, avísenos si necesita algún otro tipo de asistencia específica. La ciudad también ofrece interpretación para hispanohablantes. Para dar tiempo a reservar este recurso, envíe un correo electrónico a planningmail@ci.montrose.co.us al menos tres días antes de la reunión.

- 1) Se declara abierta la reunión de la comisión de planeación.
- 2) Pase de lista por parte del presidente de la comisión de planeación.
- 3) Aprobación de las minutas de la reunión de la comisión de planeación del 10 de mayo del 2023.
- 4) Adiciones y sustituciones
- 5) **PERMISO DE USO CONDICIONAL PARA “ALPINE FLORAL”** Esta solicitud es una solicitud para permitir a un negocio minorista dentro del Distrito Residencial de Oficinas "O" ubicado en la calle segunda norte #1301. Bajo los reglamentos de zonificación "O", los establecimientos de ventas y servicios minoristas que atienden al público en general se consideran un uso condicional. El solicitante es Alpine Floral, Inc.
- 6) Otros asuntos
- 7) La próxima reunión será el 14 de junio del 2023.
- 8) Moción para levantar la sesión.



The Montrose City Planning Commission held a meeting on May 10, 2023 at 5:00 p.m. in City Hall Council Chambers. The meeting agenda was posted in accordance with the Colorado Open Meetings Act (C.R.S. §24-6-401, et.seq.).

Planning Commissioners Present: David Fishering (Chair), Chad Huffman (Vice-Chair), Steve Ball, Phoebe Benziger, Ronald Cairns (alternate), Jan Chastain, Delphine Jadot, and Richard Rogers. Absent: None.

Staff Members Present: Jace Hochwalt (Planning Manager), William Reis (Planner I), Chris Dowsey (Assistant City Attorney), Scott Murphy (City Engineer), Sharon Dunning (Building Services Technician).

There were 8 members of the public in attendance.

CALL TO ORDER

Chairperson David Fishering called the meeting to order at 5:00 p.m.

APPROVAL OF MINUTES

Jan Chastain moved to approve the minutes of the April 26, 2023 meeting as submitted. Richard Rogers seconded, and the motion carried.

ADDITIONS OR DELETIONS

None.

FIORI DI LENA SUBDIVISION PRELIMINARY PLAT.

This is a proposal for a 12-lot residential subdivision located on either side of the planned extension of 6700 Road. The property is approximately 6.6 acres in size and is located south of the intersection of Miami Road and 6700 Road. The property is zoned "R-1A" Large Estate District. The applicants are Ben and Paul DeJulio and City of Montrose.

Staff Presentation

William Reis introduced this item. All public requirements have been fulfilled and the official files and exhibits have been entered into the record.

Scott Murphy discussed the preliminary plat phase of the project.

Questions for Staff

Planning Commissioners and staff discussed managing traffic and safety on 6700 Road, shared driveway access, trails, turning lanes, lot sizes and depths, setbacks, and buildable envelope.

Questions for Applicant

The applicant was present on zoom but had technical difficulties.

Public Hearing

Two members of the public came forward with concerns about separation between homes, headlights shining into their neighborhood, dark sky neighborhood and if houses would be one or two stories.

Discussion

Planning Commissioners and staff discussed irrigation easements, the setback variance, building height, and headlights shining into houses and potential remedies such as fencing.

Motion and Vote

Richard Rogers moved to recommend to City Council approval of the Preliminary Plat application with the following condition(s). The approval of this Preliminary Plat is expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and municipal code provisions are met, and that the Applicant adequately addresses all of staff's concerns prior to the execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied. The request meets the Code criteria based on the evidence and testimony presented at this hearing and in the staff report. Delphine Jadot seconded, and the motion carried unanimously.

OTHER BUSINESS

Staff discussed the housing needs assessment and the code update phase 2 process and gave updates on a couple items that previously came before the Planning Commission.

NEXT MEETING

The next Planning Commission meeting is scheduled for May 24, 2023.

PUBLIC COMMENT

None.

ADJOURNMENT

Phoebe Benziger moved to adjourn the meeting. Richard Rogers seconded, and the meeting ended at 5:33 p.m.

CHAIRPERSON

ATTEST



CITY OF MONTROSE
Planning Services

MEMO

TO: Planning Commission
FROM: William Reis, Planner II
DATE: May 24, 2023
RE: Alpine Floral Conditional Use Permit
ATTACHMENTS:

- Exhibit A: Maps
- Exhibit B: CUP Application
- Exhibit C: Chapter 11-1. Zoning Regulations

Public notice requirements have been fulfilled in accordance with Section 11-4-3(D) of the City of Montrose Municipal Code. A sign was posted on the property, letters sent to property owners within 300 feet, and an ad appeared in the Montrose Daily Press.

Planning Commission Consideration:

The Planning Commission will approve or deny the Conditional Use Permit for the proposed Alpine Floral. The Planning Commission will consider all of the information in this memo in making a decision.

Application Background:

Alpine Floral, an existing business located at 242 W Main St, is proposing to relocate to Lots 10 through 15, Block 3 of the Cedar Addition, also known as 1301 N 2nd St. The proposed use falls under the category of retail sales and services establishments which cater to the general shopping public, considered a conditional use in the “OR” Office-Residential District.

Applicant:

Applicant: Alpine Floral

Staff Analysis:

1. Zoning Code 11-7-6 (H) outlines conditional uses within the “OR” Office-Residential District.
 - Section 11-7-6 of the Municipal Code is provided in Exhibit B.
 - Conditional Uses include: Retail sales and services establishments which cater to the general shopping public.
 - This proposal is not a use-by-right, and therefore, is subject to review as a conditional use.

2. The conditional use criteria, outlined in 11-7-6 of the Montrose Municipal Code, are as follows:
 - *Conditional uses.* Uses listed as conditional uses on the schedule of uses in Subsections 11-7-6 (G) and 11-7-6 (H) shall be allowed only if the Planning Commission determines, following review pursuant to Chapter 11-4 of this Title, that the following criteria are substantially met with respect to the type of use and its dimensions:
 - i. The use will not be contrary to the public health, safety, or welfare.
 - ii. The use is not materially adverse to the City's Comprehensive Plan.
 - iii. Streets, pedestrian facilities, and bikeways in the area are adequate to handle traffic generated by the use with safety and convenience.
 - iv. The use is compatible with existing uses in the area and other allowed uses in the district.
 - v. The use will not have an adverse effect upon other property values.
 - vi. Adequate off-street parking will be provided for the use.
 - vii. The location of curb cuts and access to the premises will not create traffic hazards.
 - viii. The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of adjacent property.
 - ix. Landscaping of the grounds and the architecture of any buildings will be reasonably compatible with that existing in the neighborhood.
 - The Burden shall be upon the applicant to prove that these requirements are met.
3. Staff finds that the proposed tire center meets the Conditional Use Criteria above. It is in compliance with the Comprehensive Plan and is compatible with existing uses in the area. The site is located in the "OR" Office-Residential District.

Staff Recommendation:

The staff finds that the criteria have been met, and recommend approval of the request.

Planning Commission Motion Alternatives:

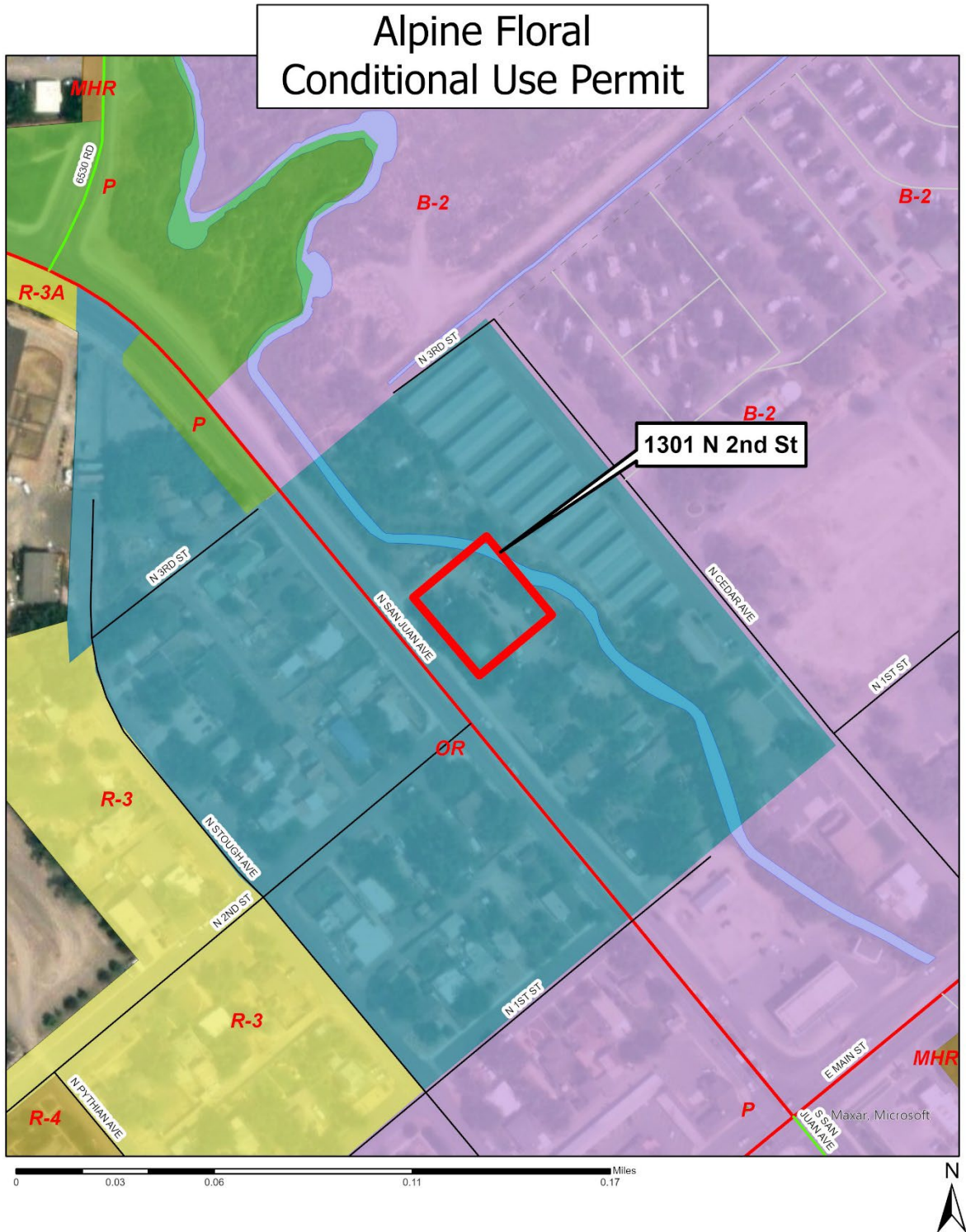
Approval Motion Recommendation:

"I hereby make a motion to approve the request to allow the conditional use of a retail sales and services establishment within the "OR" Office-Residential District, located at 1301 N 2nd St. The request meets the Code criteria based on the evidence and testimony presented at this hearing and as outlined in the staff report"

Denial Motion Recommendation:

“I hereby make a motion to deny the request. The request does not meet the Code criteria based on the evidence and testimony presented at this hearing and in the staff report.”

EXHIBIT A: Maps



May 2nd, 2023

Alpine Floral Conditional Use Permit

Detailed Statement Describing the Use and Compliance:

We are seeking the conditional use permit to use the property for our retail florist business and event rental company. Alpine Floral has been a staple in the community since the 1970's. We are looking to move to the business to the address 1301 North 2nd Street for our permanent location. We do have a retail store front with low walk-in traffic. We typically provide delivery services, however, do see 0-5 walk in customers per day Monday through Saturday on Average. Closed on Sundays.

We are looking to expand the existing property by building a sunroom and utilizing a shed for floral storage and processing. There is a permitted pole barn on the property, and we would like to enclose that with metal walls for storage and concrete flooring. We would like to build a 40x50 metal building, with concrete flooring and metal walls for storage of our rental equipment. This fits the look of the neighborhood, and there is a long privacy fence that will block most of this from street view.

Site Plan: Provided- Modifications and additions labeled in Red and Orange on Map.

All structures will remain. Additional structures will be modified or added.

Sunroom/enclosed porch – 12x18 = 216 square feet – Windows, and deck flooring for water release.

Car port/Connex Barn -Modified for event storage – metal walls, roof, concrete flooring. 1128= square feet.

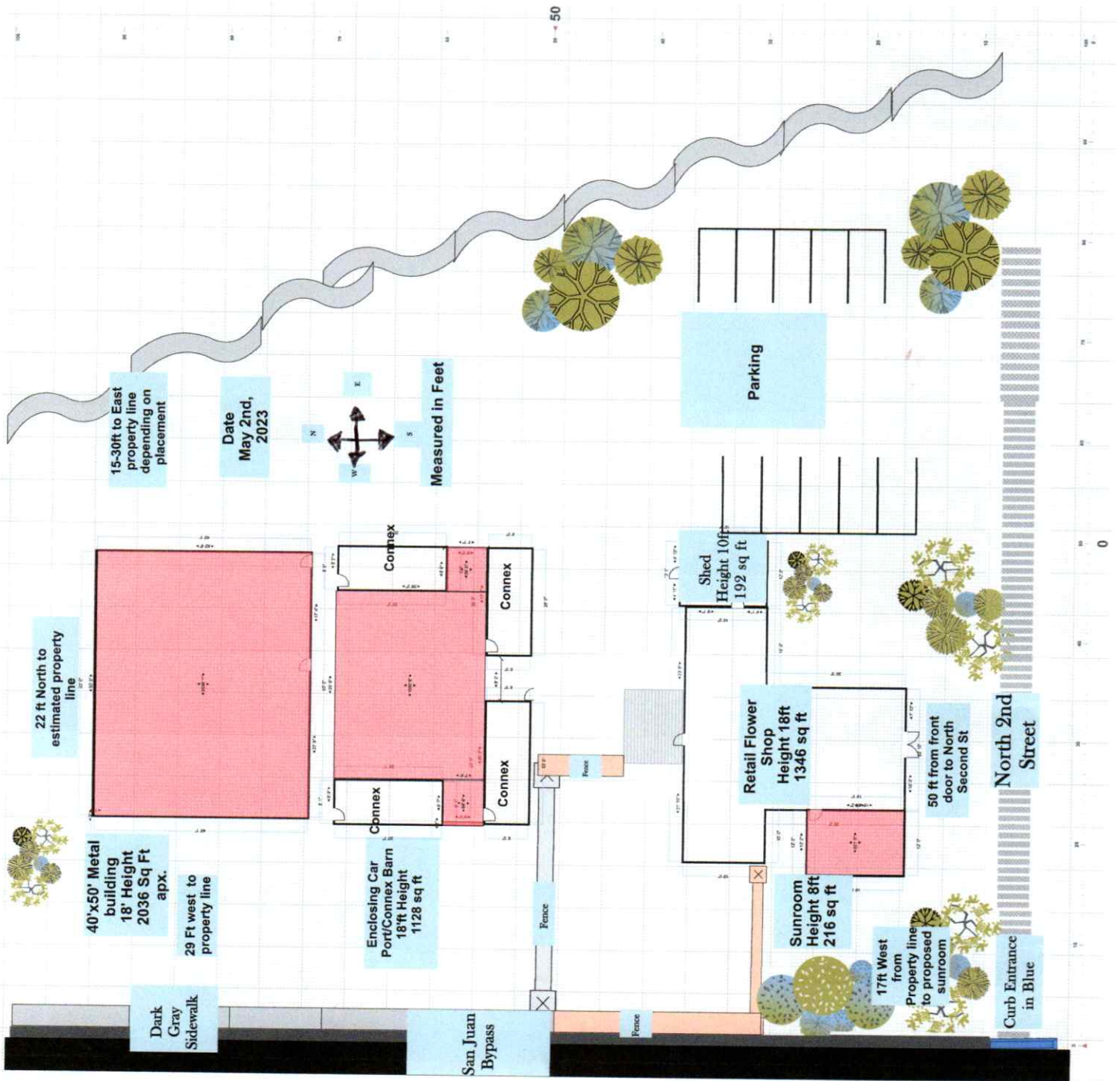
Metal Building for event storage 40x50=2036 square feet

Landscaping will not be modified. 75 feet of fencing will be removed and relocated on the property for different uses. The other fencing will remain in place.

4-4-26 Conditional Use Criteria

(A)

- 1) The property will not be used for anything harmful to public health, safety, or welfare. We are a retail floral business, nothing we provide or create is harmful in any way.
- 2) The use will not be averse to the City's master plan to our knowledge.
- 3) The streets, pedestrian facilities and bikeways are more than adequate to handle the use. We typically only see an average of 0-5 customers per working day.
- 4) The use is compatible with existing uses. There are several public businesses that are retail oriented within blocks of the property. The Montrose County Event Center, storage units, gas stations, laundry facilities and restaurants. The appearance of the improvements will be compatible with the businesses in the area.
- 5) The improvements should improve the value of the property.
- 6) There is plenty of off-street parking. See map provided for details.
- 7) The location of the curb cutouts and access will not cause any traffic hazards.
- 8) The use will not generate any noise, light, odor, vibration, or any other negative effects to the general enjoyment of the surrounding properties.
- 9) The landscape will not be modified. The buildings will be compatible to other architecture in the neighborhood.



Front of Property – House will be retail flower shop



Curb entry from San Juan Bypass to North 2nd Street



Fencing along San Juan Bypass – 75 will be relocated for visibility and alternate use



Customer Parking – Neighborhood view of commercial storage units to the East



Connex Unit Barn



North of Property – Where proposed 40x50 Metal building will be located.



Neighborhood view



Neighborhood view – Montrose County Event Center



CHAPTER 11-7. ZONING REGULATIONS

Sec. 11-7-1. General provisions.

- (A) This Chapter, as amended from time to time, and the March 2016 Revised Zoning Map of the City, as amended from time to time, may be cited as the City's Zoning Regulations or Zoning Ordinance.
- (B) The purpose of these Zoning Regulations is to promote the public health, safety and welfare of the present and future inhabitants of Montrose, as described at Section 11-1-4 of this Title.
- (C) The City hereby declares that the regulation and development of land, including regulation by these Zoning Regulations, is exclusively a matter of local and municipal concern, and any provisions of any Statute or regulation of the state in conflict with the provisions of these Zoning Regulations, or any limitation imposed by any Statute or regulation of the state otherwise applicable are hereby superseded; provided, however, the City shall retain all powers authorized by state law with respect to land development regulations and zoning even though not specified within this Chapter, and such powers may be exercised in any lawful manner free from any limitations imposed by State Statute or regulation.
- (D) No business or use involving the sale or distribution of products or services, or the pursuit of activities, whether for profit or not for profit, which is in contravention of any federal, state or local law or regulation, shall be considered a use by right, a conditional use, or a lawful nonconforming use under this Chapter, in any zoning district within the City limits.

Sec. 11-7-2. Official Zoning Map.

- (A) The March, 2016 Revised Zoning Map of the City, as such may be amended from time to time, may be known or cited as the Official Zoning Map of the City.
- (B) Amendments to the Official Zoning Map may be made by an ordinance enacting a revised map or by an ordinance amending portions of the Official Zoning Map by specifying the legal description of the property to be rezoned. A copy of the Official Zoning Map, as amended from time to time, shall be maintained in the City Clerk's office available for public inspection. The City Manager may cause technical corrections to the Official Zoning Map to be made without any requirement that they first be approved by ordinance, provided such corrections simply implement the terms of previously-approved rezoning ordinances and are consistent with the zone district boundary rules of interpretation in Section 11-7-3.

Sec. 11-7-3. Zone district boundaries.

The regulations for the various residential, mixed use, commercial and industrial districts provided for in this Chapter shall apply within the boundaries of each such district as indicated on the Official Zoning Map. In establishing the boundaries of the zoning districts shown on the Official Zoning Map, the following rules shall apply:

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- (1) General rules of interpretation. For unsubdivided property or where a zoning boundary divides a property, or if the zoning boundaries cannot otherwise be determined, the boundaries on the Official Zoning Map shall be based upon the individual zoning or rezoning map approved for the property.
 - (2) Lot or block lines. Where no rights-of-way exist and the zoning boundaries are indicated as approximately following lot, tract, block or subdivision boundary lines, such limits shall be considered as the zoning district boundaries.
 - (3) Rights-of-way. Unless otherwise indicated, the zoning district boundaries are the centerlines of streets, alleys, waterways, and railroad rights-of-way. The area within any of the rights-of-way is not granted any of the use rights associated with the overlying or adjacent zoning district(s).
 - (4) Vacated rights-of-way. Whenever a public street, alley or other right-of-way has been vacated, the zoning district adjoining each side of the right-of-way shall be extended to include the portion of the vacated street, alley, or other right-of-way adjacent to such adjoining property.
 - (5) City boundaries. Boundaries indicated as approximately following the City limits shall be considered as following the City limits.
 - (6) Other boundaries. Boundaries indicated as approximately parallel to or extensions of centerlines, lot, or tract lines, City limits, or similar geographic lines shall be considered as the boundaries when no or other reliable documentation is available.
 - (7) Map discrepancies. Should an actual street layout or stream course vary from that shown on the map or any other uncertainty remain as to the location of a zoning district boundary, the City Manager shall interpret the map based on the best information available and according to the intent of this title and any other applicable provisions of the Municipal Code.
 - (8) Boundary disputes. Disputes concerning the exact location of any zoning district boundary line shall be decided by the Planning Commission.

Sec. 11-7-4. Zoning annexed land.

All annexed land shall be zoned within 90 days of annexation following the procedure for rezoning at Section 11-7-12. Zoning of property proposed for annexation may be processed simultaneously with the petition for annexation, provided no ordinance zoning such property may be finally adopted prior to final adoption of an ordinance or ordinances annexing such property.

Sec. 11-7-5. Districts established.

- (A) The residential districts described below are established to promote stability in residential neighborhoods; to protect such property from incompatible land uses; to protect property values; and to encourage the appropriate use of such land. Certain other uses are permitted which are compatible with residences.

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- (1) The "RL" Rural Living District is intended to provide for farms, ranches, and clustered development with open space, and is designed to dovetail with allowed County residential densities.
 - (2) The "R-1" Very Low Density District is intended to provide for large lot rural residential development with a maximum density of one dwelling unit per acre.
 - (3) The "R-1A" Large Estate District and "R-1B" Small Estate District are intended to provide for large single-family residential lots within a semi-rural environment.
 - (4) The "R-2" Low Density District is intended to provide for development of single-family residences, along with certain other compatible land uses.
 - (5) The "R-3" Medium Density District is intended to provide for an area which is suitable for both single-family homes and duplexes, along with certain other compatible land uses.
 - (6) The "R-3A" Medium High Density District is intended to provide for an area which is suitable for single-family homes, duplexes and multifamily residences, along with certain other compatible land uses.
 - (7) The "R-4" High Density District is intended to provide for high density multiple-family residences and to allow variety in housing types.
 - (8) The "R-5" Low Density/Manufactured Housing District is intended to provide for low density development of single-family manufactured homes, along with certain other compatible land uses.
 - (9) The "R-6" Medium Density/Manufactured Housing District is intended to provide for medium-density development for single-family and duplex manufactured homes, along with certain other compatible land uses.
 - (10) The "MHR" Manufactured Housing Residential District is intended to provide a suitable environment for mobile homes, along with certain other compatible land uses.
- (B) The mixed-use district described below is established to promote stability in areas in transition; to protect such property from incompatible land uses; to protect property values; and to encourage the appropriate use of such land.
- (1) The "OR" Office-Residential District is intended to provide for a mix of offices and residences in areas adjacent to commercial zones or in areas in transition from residential to commercial uses.
- (C) The commercial districts described below are established to provide a location for convenient exchange of goods and services in a reasonable and orderly manner.
- (1) The "P" Public District is intended to provide for uses and services of a public, nonprofit, or charitable nature.
 - (2) The "B-1" Central Business District is intended to reflect the character of the original Downtown while allowing additional uses that will strengthen and expand the core of the City.
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- (3) The "B-2" Highway Commercial District is intended to provide for businesses oriented toward serving the motoring public, encouraging the convenient exchange of goods and services along the major thoroughfares of the City.
 - (4) "B-2A" Regional Commercial District is intended to provide for a full spectrum of goods and service uses along the major thoroughfares of the City.
 - (5) The "B-3" General Commercial District is intended to provide for a large variety of goods and services including outdoor storage areas and a limited group of commercial/industrial uses.
 - (6) The "B-4" Neighborhood Shopping District is intended to provide for small scale retail shopping and services convenient to residential neighborhoods.
 - (D) The industrial districts described below are established to provide for normal manufacturing activities and related uses.
 - (1) The "I-1" Light Industrial District is intended to provide for a limited group of research and manufacturing uses promoting the creation and maintenance of an employment center which will serve the mutual interests of the community as a whole.
 - (2) The "I-2" General Industrial District is intended to provide for most industrial and manufacturing uses, subject to performance standards.
 - (E) Dimensional requirements are set out in Section 11-7-7.

Sec. 11-7-6. District uses.

- (A) *Permitted uses.* Those uses designated as permitted uses on the schedule of uses in Subsections 11-7-6 (G) and 11-7-6 (H) are allowed as a matter of right subject to approval of a site development plan per Section 11-8-1 of this Title.
- (B) *Conditional uses.* Uses listed as conditional uses on the schedule of uses in Subsections 11-7-6 (G) and 11-7-6 (H) shall be allowed only if the Planning Commission determines, following review pursuant to Chapter 11-4 of this Title, that the following criteria are substantially met with respect to the type of use and its dimensions:
 - (1) The use will not be contrary to the public health, safety, or welfare.
 - (2) The use is not materially adverse to the City's Comprehensive Plan.
 - (3) Streets, pedestrian facilities, and bikeways in the area are adequate to handle traffic generated by the use with safety and convenience.
 - (4) The use is compatible with existing uses in the area and other allowed uses in the district.
 - (5) The use will not have an adverse effect upon other property values.
 - (6) Adequate off-street parking will be provided for the use.
 - (7) The location of curb cuts and access to the premises will not create traffic hazards.
 - (8) The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of adjacent property.

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- (9) Landscaping of the grounds and the architecture of any buildings will be reasonably compatible with that existing in the neighborhood.
- (C) *Principal uses.* The primary use of a lot is referred to as a principal use which may be a land use or a structure. Only one (1) principal use per lot is allowed except where a mix of residential and nonresidential uses may be permitted in a specified zone district.
- (D) *Accessory uses.* Accessory uses shall comply with all requirements for the principal use, except where specifically modified by this Chapter, and shall also comply with the following limitations:
- (1) An accessory use shall be clearly incidental, customary to and commonly associated with the operation of the permitted use.
 - (2) An accessory use shall be operated and maintained under the same ownership as the permitted use.
 - (3) An accessory use shall be located on the same lot as a principal use.
- (E) *Temporary Use Permits.*
- (1) The City Manager or his designee may issue a permit authorizing a temporary use of premises in a district for a use which is otherwise not allowed in such a district for a period of up to one year in accordance with this Subsection.
 - (2) The temporary use permit may be issued by the City Manager only after it determines that unusual circumstances exist, not created by the applicant, such as damage, destruction or delay in construction of applicant's permanent premises, which results in significant hardship, and that the temporary use will not unreasonably interfere with the use of other property, or result in any permanent adverse effects to other property, or create a safety or health hazard.
 - (3) The City Manager or his designee shall hold such hearings concerning the application and provide such notice thereof as the circumstances merit in his opinion. The permit may be granted subject to conditions appropriate to ensure compliance with this Subsection.
 - (4) *Temporary Construction or Sales Office.* A building within a subdivision may be utilized as a temporary construction or sales office for a period up to one year by the developer of that subdivision during the period of the construction and initial sales respectively of the building and improvements within the area encompassed by the preliminary plat for each subdivision. The City Manager may authorize additional one-year periods for use as a construction office if construction is continuing in the area after the preceding year, or as a sales office if not all of the houses in the area have been sold during the year preceding.
- (F) *Uses Not Listed.*
- (1) Uses not listed in a zone district are prohibited except that such uses may be approved by the City Manager provided such uses are found to be similar to a permitted use.
 - (2) Any person aggrieved by a decision of the City Manager pursuant to this Subsection may appeal that decision to the City Council under the following procedure:
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- (a) The appeal must be made in writing and filed within thirty (30) days of the decision being appealed.
 - (b) The City Council shall consider the appeal at a public hearing held within thirty (30) days of receipt of the written appeal, notice of which shall be given to the appellant by US mail at least fifteen (15) days prior to the hearing.
 - (c) The City Council shall approve or deny the appeal.
 - (d) The decision of the City Council shall be the final decision of the City on the matter, appealable only to the district court.

(G) Schedule of Residential Zone District Uses.

Land Use	RL	R-1	R-1A/B	R-2	R-3	R-3A	R-4	R-5	R-6	MHR
COMMERCIAL USES										
Bed and breakfast (See Sec. 11-11-1)					C		C		C	
Farms and ranches, excluding commercial greenhouses, and commercial feedlots, fur farms, fish farms, poultry houses, hog farms, dairies and similar operations with a high density of animals.	P									
Rental storage units with a maximum rental unit size of 200 square feet.										C
Short-term rentals	P	P	P	P	P	P	P	P	P	P
INSTITUTIONAL USES										
Assisted living facilities					C	C	C		C	C
Childcare facilities	C	C	C	C	C	C	C	C	C	C
Family childcare home	P	P	P	P	P	P	P	P	P	P
Government buildings and facilities	P	P	P	P	P	P	P	P	P	P
Religious assembly	C	C	C	C	P	P	P	C	C	P
Schools	C	C	C	C	C	C	C	C	C	C
RECREATIONAL USES										
Golf courses	P									
Parks, open space and recreation facilities	P	P	P	P		P	P	P	P	P
RESIDENTIAL USES										
Duplex					P	P	P		P	
Group homes - handicapped/disabled 8 persons or less (see Sec. 11-11-2)	P	P	P	P	P	P	P	P	P	P
Group homes - handicapped/disabled > 9 persons (see Sec. 11-11-2)	C	C	C	C	C	C	C	C	C	C
Group homes, other (see Sec. 11-11-2)	C	C	C	C	C	C	C	C	C	C

Land Use	RL	R-1	R-1A/B	R-2	R-3	R-3A	R-4	R-5	R-6	MHR
Home occupation (See Sec. 11-11-3)	A	A	A	A	A	A	A	A	A	A
Manufactured housing				¹				P	P	P
Mobile homes (See Sec. 11-13)										P
Mobile home parks (See Sec. 11-13)										P
Modular housing								P	P	P
Multi-family dwelling					C	P	P		C	
Single-family dwelling	P	P	P	P	P	P	P	P	P	P
UTILITIES AND TELECOMMUNICATION FACILITIES										
Antennas (See Sec. 11-14-6)	C	C	C	C	C	C	C	C	C	C
Public utility service facilities	P	P	P	P	P	P	P	P	P	P
Towers (See Sec. 11-14-5)	C	C	C	C	C	C	C	C	C	C
OTHER USES										
Accessory uses (See Sec. 11-7-6 (D))	A	A	A	A	A	A	A	A	A	A
Temporary use (See Sec. 11-7-6 (E) (1-3))	T	T	T	T	T	T	T	T	T	T
Temporary Construction or Sales Office (See Sec. 11-7- 6 (E)(4))	T	T	T	T	T	T	T	T	T	T
Travel home (See Sec. 11- 13-6 (2))		T	T	T	T	T	T	T	T	T

¹ Manufactured housing is prohibited except for the following subdivision which was under development on July 1, 1998: Rainbow Meadows Subdivision.

Land Use	RL	R-1	R-1A/B	R-2	R-3	R-3A	R-4	R-5	R-6	MHR
Legend: Zoning Districts RL: Rural Living R-1: Very Low Density R-1A: Large Estate R-1B: Small Estate R-2: Low Density R-3: Medium Density R-3A: Medium High Density R-4: High Density R-5: Low Density/Manufacture Housing R-6: Medium Density/Manufacture Housing MHR: Manufactured Housing Residential				Legend: Use Type P: Permitted Use C: Conditional Use A: Accessory Use T: Temporary Use Note: Any uses not listed in a zone district are prohibited – see Sec. 11-7-6 (F)(1).						

(H) Schedule of Mixed Use, Commercial and Industrial Zone District Uses.

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
COMMERCIAL USES									
Automobile and vehicle sales, repair or service establishments			C	C	P	P			
Automobile body shops			C	C	P	P			
Bed and breakfast (See Sec. 11-11-1)	P								
Building materials businesses			C	P	P	P			
Car washes				P	P	P	C		
Commercial businesses		C							
Commercial uses other than the uses by right in this zone district which comply with the performance standards of Chapter 11-11-4 and are consistent with Sec. 11-7-5 (D) (1).								C	
Farm implement sales or service establishments					P	P			
Fueling stations or other retail uses having fuel pumps which comply with the following criteria: (a) All fuel storage, except propane, shall be located underground. (b) All fuel pumps, lubrication and service facilities shall be located at least 20 feet from any street right-of-way line.			P	P	P	P	C		
Funeral homes			C	C	C	C			
Hotels and motels			P	P	P	P			
Laundry facilities, self-service				P	P	P	P		
Mobile and travel home sales or service establishments					P	P			
Offices for medically related and professional service providers including doctors, dentists, chiropractors, lawyers, engineers, surveyors, accountants, bookkeepers, secretarial services, title companies, social service providers and other similar professional service providers.	P								

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Offices not allowed as a use by right.	C								
Travel home parks and campgrounds (See Sec. 11-13)				C	C	C			
Rental businesses					P	P			
Restaurants			P	P	P	P	P		P
Restaurants, drive-in or drive-through			C	C	C	C	C		
Retail sales and services establishments which cater to the general shopping public	C								
Retail stores, business and professional offices, and service establishments which cater to the general shopping public.			P	P	P	P	P		P
Retail stores, business and service establishments serving the general public but which also involve limited manufacturing of the products supplied				C	C	C			
Sexually oriented business (See Sec. 11-12-1)									P
Short-term rentals	P		P	P	P	P	P	P	P
Taverns			P	P	P	P	C		
Theaters			P	P	P	P			
Veterinary clinics or hospitals for small animals				P	P	P			
Veterinary clinics or hospitals for large animals					P	P			
INDUSTRIAL USES									
Above ground storage facilities for hazardous fuels						P			P
Aircraft support services, including, but not limited to, aircraft maintenance and passenger and crew services.								P	P
Construction and contractor's office and equipment storage facilities						P			P
Feed storage and sales establishments						P			P

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Manufacturing and non-manufacturing uses including: food processing; metal finishing and fabrication; paper, plastic and wood manufacturing (excluding processing of any raw materials), fabric manufacturing and similar activities. (See Sec. 11-11-4)					C	C		P	P
Other industrial uses									P
Storage facilities, indoor			C	P	P	P	C		P
Storage facilities, outdoor					C	P		P	P
Warehouse and wholesale distribution operations			C	C	C	C		P	P
INSTITUTIONAL USES									
Airport								P	P
Assisted living facilities	C			P	P	P			
Childcare facilities	P	C	P	P	P	P	P	P	P
College or other place of adult education			P	P	P	P			
Daytime social service activities by a social service provider, to include food storage; food distribution without monetary remuneration as a food pantry and/or food service without monetary remuneration as a soup kitchen; laundry facilities not for profit; showers; and counseling to include alcohol and/or substance abuse counseling. This use by right expressly excludes the overnight sheltering of people. For the purposes of this use by right authorization, "daytime" shall mean from 6:00 a.m. to 6:00 p.m. Mountain Standard Time. "Night" shall mean from 6:00 p.m. to 6:00 a.m. Mountain Standard Time.			P	P	P	P			
Family child care home	P	C	P	P	P	P	P	P	P
Government buildings and facilities	P	P	P	P	P	P	P	P	P
Hospitals	P								
Libraries		P	P	P	P	P			

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Museums and visitor centers		P	P	P	P	P			
Parking facilities	P	P	P	P	P	P			
Private and fraternal clubs			P	P	P	P	C		
Public transportation facilities			P	P	P	P			
Religious assembly	P	P	P	P	P	P	P		
Schools	C	P	C	C	C	C	C		
RECREATIONAL USES									
Golf courses		C							
Parks, open space and recreation facilities	P	P	P	P	P	P	P	P	P
Private recreation facilities		P							
RESIDENTIAL USES									
Duplex	P		P	P	P	P	P	P	P
Group homes - handicapped/disabled 8 persons or less (see Sec. 11-11-2)	P		P	P	P	P	P	P	P
Group homes - handicapped/disabled > 8 persons (see Sec. 11-11-2)	C		C	C	C	C	C	C	C
Group homes, other (See Sec. 11-11-2)	C		C	C	C	C	C	C	C
Home occupation (See Sec. 11-11-3)	A		A	A	A	A	A	A	A
Multifamily dwelling	C	C	P	P	P	P	P	P	P
Single-family dwelling	P	C	P	P	P	P	P	P	P
Supportive housing	C					C		C	
UTILITIES AND TELECOMMUNICATION FACILITIES									
Antennas (See Sec. 11-14-6)	C	C	C	C	C	C	C	C	C
Public utility service facilities	P	P	P	P	P	P	P	P	P
Towers (See Sec. 11-14-5)	C	C	C	C	C	C	C	C	C
OTHER USES									
Accessory uses (See Sec. 11-7-6 (D))	A	A	A	A	A	A	A	A	A
Temporary use (See Sec. 11-7-6 (E) (1-3))	T	T	T	T	T	T	T	T	T
Temporary Construction or Sales Office (See Sec. 11-7-6 (E)(4))	T	T	T	T	T	T	T	T	T
Travel home (See Sec. 11-13-6 (2))	T		T	T	T	T	T	T	T

Land Use	OR	P	B-1	B-2	B-2A	B-3	B-4	I-1	I-2
Legend: Zoning District OR: Office-Residential P: Public B-1: Central Business B-2: Highway Commercial B-2A: Regional Commercial B-3: General Commercial B-4: Neighborhood Shopping I-1: Light Industrial I-2: General Industrial			Legend: Use Type P: Permitted Use C: Conditional Use A: Accessory Use T: Temporary Use Note: Any uses not listed in a zone district are prohibited – see Sec. 11-7-6 (F)(1).						

Sec. 11-7-7. District standards.

(A) Tabulated requirements for uses by right are as follows (all dimensions in feet or square feet unless otherwise noted):

District	Use	Minimum Lot			Minimum Setbacks				Maximum Building Height
		Width at Building Line	Depth	Size	Front	Rear	Side	Corner Lot	
RL	All	100	150	²	25	20	10	20	35
R-1	All	100	150	1 acre	25	20	10	20	35
R-1A	All	100	150	½ acre	25	20	10	20	35
R-1B	All	100	150	⅓ acre	25	20	10	20	35
R-2	All	N/A	N/A	7,500	25	20	6	20	35
R-3	Single-family	N/A	N/A	6,250	15	25	5	15	35
	All others	N/A	N/A	9,375	15	25	5	15	35
R-3A	Single-family	N/A	N/A	6,250	15	25	5	15	35
	Duplex	N/A	N/A	9375	15	25	5	15	35
	All others	N/A	N/A	Larger of 9,375 or 2,900/unit	15	20	10	15	35
R-4	Single-family	N/A	N/A	6,250	15	25	5	15	35
	Duplex	N/A	N/A	9,375	15	25	5	15	35
	All others	N/A	N/A	Larger of 9,375 or 2,300/unit	15	20	10	15	35
R-5	All	100	120	12,000	25	20	10	20	35
R-6	Single-family	N/A	N/A	7,500	25	20	6	20	35
	All others	N/A	N/A	9,375	25	20	6	20	35
MHR	All except MH Parks ³	N/A	N/A	3,125	5	10	10	10	35
OR	Single-family	50	100	6,250	15	15	5	15	35
	Duplexes	50	100	6,250	15	15	5	15	35
	All Others	50	100	6,250	15	15	5	15	35
B-1	No Req	No Req.	No Req.	No Req., except for fueling stations	No Req.	No Req.	No Req.	No Req.	No Req.

² A minimum lot size shall be determined as a condition of initial zoning of property as "RL." Such lot size shall be designed to limit overall residential units per acre to no more than allowed by Montrose County in comparable areas in the County where sewer is available, and to implement the City Comprehensive Plan as feasible while remaining economically competitive with allowed County densities.

³ Dimensional requirements for mobile home parks are controlled by Chapter 11-13-5 of this Title.

B-2	All ⁴	50	100	N/A	15	N/A	N/A	15	N/A
B-2A	All	50	100	N/A	25	N/A	N/A	25	35
B-3	All	50	100	N/A	25	N/A	N/A	25	35
B-4	All	N/A	N/A	N/A	25	N/A	N/A	25	35
I-1	All	N/A	N/A	½ acre	25	N/A	N/A	25	N/A
I-2	All	N/A	N/A	½ acre	25	N/A	N/A	25	N/A
All Zones Except I-1, I-2	Renewable Energy Facilities	N/A	N/A	N/A	25	25	10	25	35
I-1, I-2	Renewable Energy Facilities	N/A	N/A	N/A	25	25	10	25	N/A

- (B) Proper dimensional requirements for conditional uses shall be determined in accordance with this Section and Section 11-7-6 (B), provided that as a general rule, they shall be no less strict than the dimensional requirements specified for permitted uses in the district concerned or as specified for the use concerned in a zone in which it is a permitted use. Provided, further, that the following minimum lot sizes shall apply to duplexes and multifamily residences when allowed as a conditional use:

District	Use	Minimum Lot Size
R-3 and R-6	Multifamily Residence	The larger of 9,375 or 2,900 per dwelling unit
OR	Multifamily Residence	The larger of 9,375 or 2,900 per dwelling unit

- (C) Additional Dimensional Requirements.

- (1) Accessory use structures or buildings in residential districts may be located on those rear and side property lines which do not abut a street, if the structure is at least ten feet to the rear of the building line of the principal structure and does not occupy more than 30 percent of the rear yard area.
- (2) In a block where a setback line has been established by existing structures 50 percent or more of the block, the average setback of the existing buildings may be used as the minimum setback.
- (3) Garage doors which face an alley require a five-foot minimum setback.

- (D) Additional District Standards.

- (1) All single-family dwellings in the R-5 and R-6 zone districts must have a minimum roof pitch of 3:12, a minimum roof overhang of eight inches, a minimum length and width of 20 feet, wood, brick, masonry, stucco or cosmetically equivalent exterior siding, and shall be mounted on a permanent foundation.
- (2) All duplex dwellings in the R-5 and R-6 zone districts must have a minimum roof pitch of 3:12, a minimum roof overhang of eight inches, a minimum length and width of 20

⁴ Residential uses in the B-2, B-2A, B-3, B-4, I-1 and I-2 zone districts shall comply with the applicable dimensional requirements as set out for the "R-3A" zone.

feet per dwelling unit, wood, brick, masonry, stucco or cosmetically equivalent exterior siding, and shall be mounted on a permanent foundation.

Sec. 11-7-8. Planned Development (PD).

- (A) *Intent.* The intent of this Section is to encourage the development of tracts of land in accordance with an overall development plan by providing flexibility with respect to dimensional requirements of residential units and to provide for procedures and requirements for multi-building residential development.
- (B) *General Provisions.*
- (1) A planned development must be in substantial conformity with the City's Comprehensive Plan. No development with more than one building, with one or more dwelling units therein, may be erected on a single lot, tract, parcel or site unless a PD Plan, providing therefore, is approved pursuant to this Section.
 - (2) A minimum of 20 percent of the gross area of the planned development must be preserved as parks or open space, provided, however, this requirement shall not apply to a proposed PD containing six or fewer units and processed under Subsection C(5).
 - (3) Planned developments in the "RL" zoning district must consider and reasonably minimize adverse impacts on existing agricultural uses or other property in the area.
 - (4) Residences may be clustered, including the use of duplexes and multifamily residences.
 - (5) Approval of a planned development by the City is purely discretionary. If the City and the applicant do not agree on all required conditions and the plan, the City may deny approval, or the City may unilaterally impose conditions. If the developer does not accept all conditions, that development must adhere to standard subdivision and zoning requirements.
- (C) *Permitted Uses in a PD.*
- (1) Any use permitted in the underlying zone district, limited as to its status as a use by right, a conditional use, or a temporary use.
 - (2) Modular housing used for single family homes, duplexes or multiple family residences may be allowed in any zoning district, if approved as part of the planned development.
- (D) *Administrative PD Procedure.* This procedure is applicable for planned developments containing six or fewer units:
- (1) All lots or tracts are adjacent to a dedicated and accepted public street;
 - (2) The lots are part of a subdivision or PD plat that has been previously approved and/or accepted by the City and recorded in the Montrose County Records;
 - (3) All improvements required by applicable City ordinances and regulations, including those related to PD Plans, are already in existence and available to serve each lot, or secured;
 - (4) No part of the Administrative PD has been approved as part of an Administrative PD within three years prior to the date of submission of the Administrative PD plat;

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- (5) No material changes to prior restrictions or easements are proposed; and
 - (6) Provisions of Section 11-5-3 (B) through and including (E) of this Title shall apply.
 - (7) Approval of an Administrative PD by the City is purely discretionary. If the City and the applicant do not agree on all required conditions and the plan, the City may deny approval, or the City may unilaterally impose conditions. If the applicant does not accept all conditions, that development must adhere to standard subdivision or PD requirements, and proceed through the applicable approval process.
 - (8) Prior to any review of the Administrative PD, the applicant shall provide written consent of all property owners within the proposed Administrative PD plan area. To the extent only a portion of a prior-approved Administrative PD plan area is proposed to be amended by the Administrative PD Plan application, then only the consent of the property owners within such portion shall be required.

(E) *Dimensional Requirements, Densities.*

- (1) Dimensional requirements, except those relating to overall residential density, which would otherwise be required by the City Zoning Regulations, or other City regulations for the district affected, may be deviated from in accordance with the plan as approved, if the Review Board determines that such deviations will promote the public health, safety and welfare.
- (2) The Review Board may impose conditions as necessary or appropriate. The total number of residential units shall not exceed the area of the site divided by the minimum lot sizes specified for the zoning districts included.

(F) *Review of Sketch, Preliminary and Final PD Plan.*

- (1) The sketch plan, preliminary plan and final PD plans shall be reviewed pursuant to the procedures and requirements for subdivisions as set out in Chapter 11-5 of this Title. The Planning Commission shall take no formal action at the conclusion of its public hearing on the sketch plan; however, comments by the public and the Commission shall be reflected in the minutes of the hearing as a part of the record on the application as it moves through the entire review process. For the approval of any preliminary PD Plan or a substantial amendment to a PD plan, a hearing shall be held before City Council.
- (2) Prior to any review of the Sketch, Preliminary and Final PD Plan, the applicant shall provide written consent of all property owners within the proposed PD plan area. For the purposes of this Section, "PD plan area" is the entirety of the territory proposed to be included in a PD plan; provided, however, that for applications for PD plan amendments, only the portion of the PD plan area being amended or affected shall constitute the PD plan area for such application for purposes of consent; nevertheless, all owners of property within the PD must be given notice of the public hearing at which the amendment is to be considered.
- (3) Conditions may be imposed as appropriate to assure that the PD plan is consistent with the City's Comprehensive Plan and promotes the public health, safety and welfare.

-
- (4) The plan shall show the location, size, number of dwelling units, and other uses, and shall further set out the location of all parks, open space, parking areas, streets, sidewalks, trails, bike paths and other improvements and structures. All information necessary to show compliance with the requirements of this Section shall be submitted. Where appropriate, in lieu of exact locations, numbers and sizes, parameters or limits may be set out.
 - (5) The PD Plan as approved shall be recorded.
 - (6) The final PD plan may be treated as a vested right pursuant to the procedure in 11-4-9.:

(G) *Required Improvements.*

- (1) All PDs shall provide the same improvements as required for subdivisions in Chapter 11-5 of this Title, and security therefore shall be provided as set out in Section 11-5-12 of this Title.
- (2) All improvements shall be constructed in accordance with standard City design and construction specifications and standards, in substantial conformity with the PD plan, and in accordance with subdivision design standards as set out in Chapter 11-5 of this Title, except as modified by the PD plan.
- (3) An entity shall be established or provided for ownership and maintenance of all facilities and open spaces, which are approved for common ownership or not dedicated to the City.
- (4) Flexibility in the scope and design of required improvements and design standards may be allowed to provide for innovative urban design which promotes the public health, safety and welfare. A public street shall be dedicated to the City and developed at the developer's cost to provide direct access to each building with residential units or to the parking lot serving the building.

(H) *Enforcement and Amendments.*

- (1) The PD plan may be enforced in accordance with or in the same manner as the provisions of the Planned United Development Act of 1972, as amended, C.R.S. 1973, § 24-67-101 et seq., as amended or in any lawful manner. In addition, no occupancy permit shall be issued for any building unless all site improvements to serve that unit and any commonly-owned facilities have been completed and approved unless security for completion is provided substantially similar to the security required for subdivision improvements by 11-5-12 of this Title, except that cash must be placed in the escrow account prior to issuance of the occupancy permit.
- (2) Amended PD plans may be submitted for review and approval in the same manner as the initial PD Plan. An applicant for an Amended PD plan shall submit written consent of the property owners of the portion of the PD plan area to which the application applies, prior to and as a condition of the initiation of review of the application. Written consent from all property owners within the prior-approved PD plan area is not required as part of the Amended PD plan application. Advance notice of any review of an Amended PD plan application by the Planning Commission shall occur pursuant to Chapter 11-5 of this Title, with the added requirement that advance written notice shall be provided to all property owners of record within the prior-approved PD plan area, in

addition to all property owners of record adjoining or within 300 feet of the proposed Amended PD plan area.

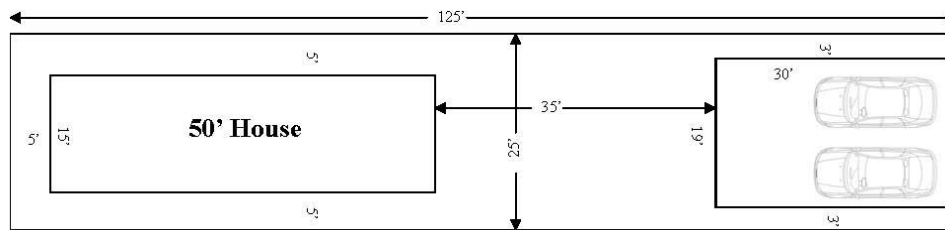
Sec. 11-7-9. "REDO" Redevelopment Overlay Zoning District.

- (A) The "REDO" Overlay Zoning District is intended to encourage residential development and redevelopment of existing properties in the core downtown area, with allowances for increased densities compatible with the character of the area. This overlay district allows reduced dimensional standards and a larger variety of housing types than the underlying zoning. Any development making use of the reduced dimensional requirements must meet all applicable criteria in this Section.
- (B) The "REDO" Overlay Zoning District is an optional set of provisions, which may be utilized by owners of property within the boundaries of said district. The "REDO" Overlay Zoning District's provisions shall not be applicable to any property within the boundaries of said district, unless the owner of property therein shall deliver written notice to the City, on forms acceptable to the City, of said owner's intent to utilize the "REDO" Overlay Zoning District.
- (1) The provisions of the "REDO" Overlay Zoning District shall have no effect whatsoever unless selected in the manner set forth herein.
 - (2) When selected by a property owner in the manner set forth herein, the "REDO" Overlay Zoning District shall supersede the provisions of the underlying zone for all matters addressed by said "REDO" Overlay Zoning District's provisions; the provisions of the underlying zone shall control all matters not addressed by the "REDO" Overlay Zoning District's provisions.
 - (3) The boundaries of the "REDO" Overlay Zoning District shall be as set forth by ordinance of the City Council, may be shown on the City's Official Zoning Map, and shall be fixed in the manner prescribed by Section 11-7-3.
 - (4) The purpose of the "REDO" Overlay Zoning District is to alleviate certain hardships associated with the redevelopment of lots or parcels included within the area platted as lots and blocks on the "Map of Montrose, Colorado with Additions and subdivisions," dated April, 1911; applications to re-zone lots or parcels, other than those included on said plat, for the purpose of including them in the "REDO" Overlay Zoning District, shall be denied.
 - (5) Any requests for use of these "REDO" Overlay Zoning District provisions that involve private use of City property, including rights-of-way, shall be entirely subject to the City's discretion, and shall also be subject to the City's ordinances and regulations pertaining to encroachments and permits for the same.
 - (6) The term "accessory dwelling unit" means, for the purposes of this Section, the residential dwelling unit on a lot closest to the alley or rear of said lot; mobile homes, park models, and travel homes shall not be included within the definition of the term "accessory dwelling unit." An accessory dwelling unit shall have no setback requirement, and shall not be subject to the 30 percent rear yard area coverage maximum. However, a ten-foot separation shall be required between the building lines of the primary structure and the accessory dwelling unit.

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- (C) Variance applications may be considered as to any requirements set forth in Subsections (F) and (G) of this Section. Use of the "REDO" Overlay Zoning District is expressly declared to be elective on the part of the property owner, and is entirely at the property owner's discretion.
- (D) Lots equal to 6,250 square feet or greater. For lots within the "REDO" Overlay Zoning District having a size equal to 6,250 square feet or greater, the following provisions shall apply:
- (1) Additional Uses by Right. One accessory dwelling unit shall be allowed in addition to the primary dwelling unit. The accessory dwelling unit may be located in a detached manufactured home structure. The detached structure must meet all other applicable dimensional standards in the underlying zoning district, except as modified by this Section, as well as all building, and other codes.
 - (2) One off-street parking space shall be required for each dwelling unit, except for those located within an underlying "B-1" zoning district. For properties located within an underlying "B-1" zoning district, the City may require that residential parking spaces be leased to provide adequate parking, in the City's sole discretion.
- (E) Lots less than 6,250 square feet, but greater than or equal to 2,075 square feet. For lots within the "REDO" Overlay Zoning District having a size of less than 6,250 square feet, but greater than or equal to 2,075 square feet, the following provisions shall apply:
- (1) Uses by Right. Single-family homes and manufactured homes.
 - (2) Setbacks. Five-foot side setbacks.
 - (3) Height. The height of a building shall be as set forth in the underlying zone.
 - (4) One off-street parking space shall be required for each dwelling unit, except for those located within an underlying "B-1" zoning district.
- (F) Design Criteria made applicable to all lots, regardless of size, within the "REDO" Overlay Zoning District.
- (1) All lots within the "REDO" Overlay Zoning District shall be required to have not less than ten feet of street frontage. It is contemplated that lots having a "panhandle" shape may be allowed.
 - (2) If an alley is present, any garage shall be set back a minimum of five feet, when practicable, from the nearest right-of-way line of said alley.
 - (3) Please refer to Section 3-5-12(A)(1) of the Official Code of the City for the water Tap Fees, system investment (capacity) fees, and unit charges for accessory dwelling units in need of new water service, located on the same lot as the primary dwelling in the "REDO" Overlay Zoning District.
 - (4) Please refer to Section 3-5-12(G)(4) of the Official Code of the City for the sewer Tap Fees, system investment (capacity) fees, and unit charges for accessory dwelling units in need of new sewer service, located on the same lot as the primary dwelling in the "REDO" Overlay Zoning District.
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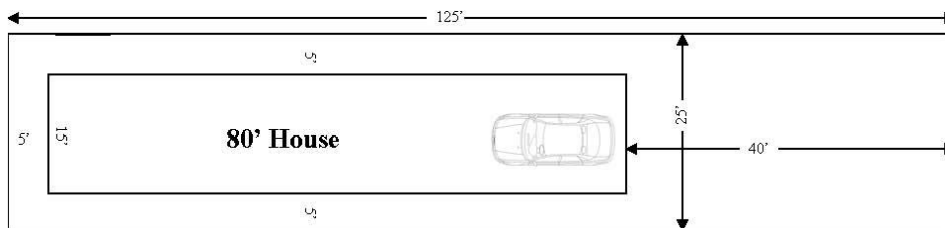
- (G) The subdivision of lots in configurations substantially similar to those shown in Figure 7.3, Figure 7.4, and Figure 7.5 shall be acceptable in the "REDO" Overlay Zoning District.

Figure 7.1 Potential Layout with a Detached Two-Car Garage



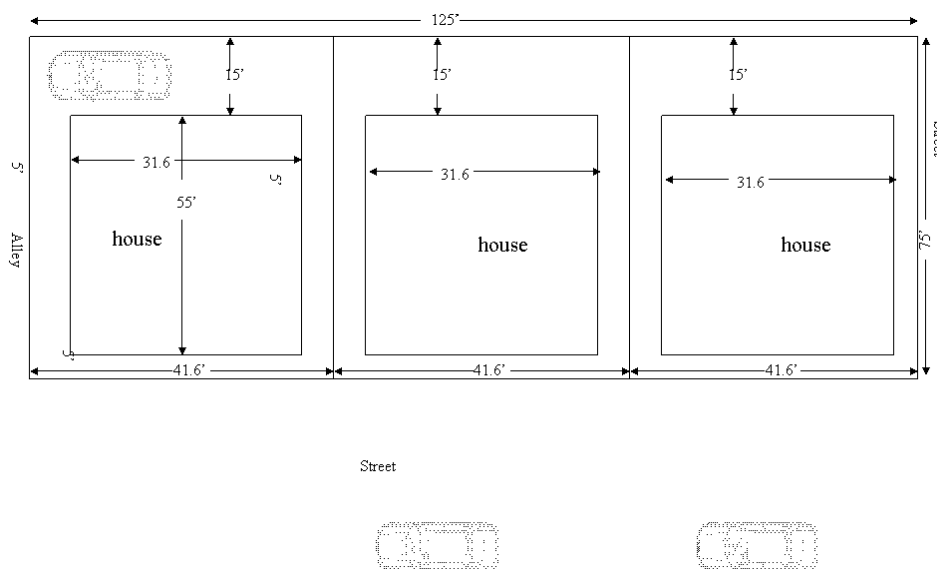
- This conceptual site plan shows a possible layout with a detached two-car garage
- Actual dimensions may vary from those shown
- Note: Three-foot garage setback is not allowed on corner lots

Figure 7.2 Potential Layout with an Attached One-Car Garage



- This conceptual site plan shows a possible layout with an attached one-car garage
- Actual dimensions may vary from those shown.

Figure 7.3 Potential Subdivision on a 75' Corner Lot



Drawing not to scale.

Figure 7.4 Potential Subdivision on a 50' Corner Lot

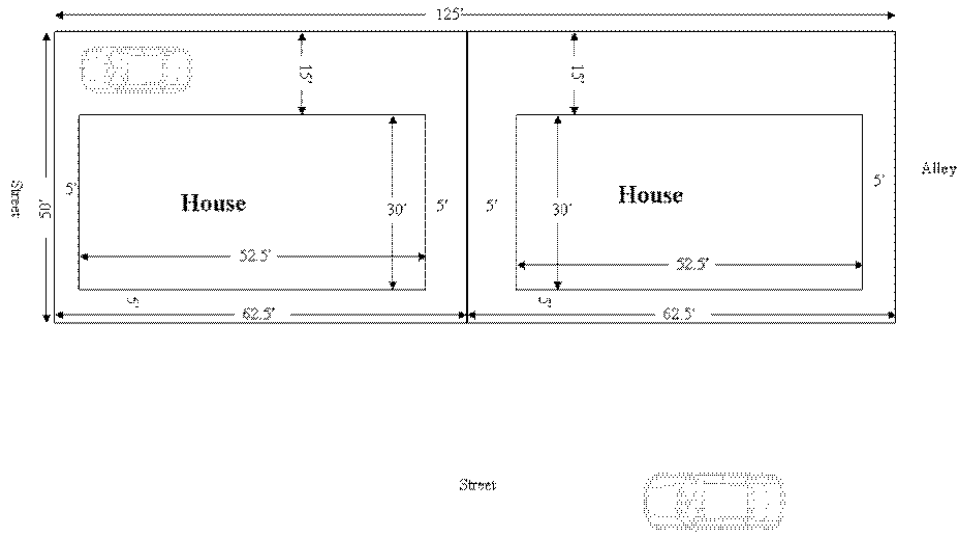
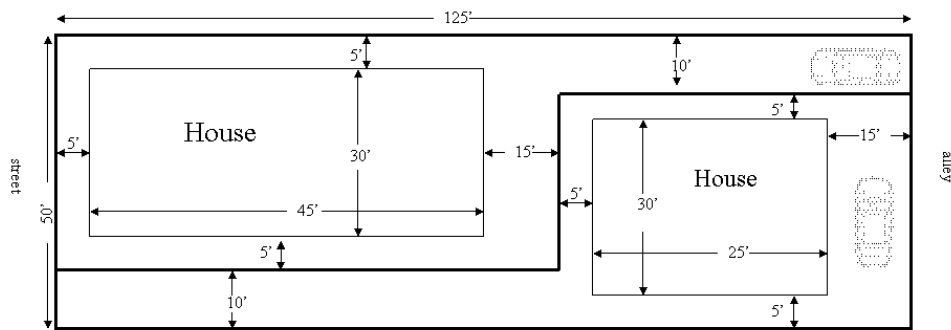


Figure 7.5 Potential Subdivision on a 50' Lot



Drawing not to scale.

Sec. 11-7-10. Uncompahgre River Buffer Overlay Zone.

The Uncompahgre River Buffer Zone (URBZ) applies to all land lying within 100 feet of the HWM of the Uncompahgre River, as defined above. The standards of the URBZ and its two sub-areas are not applicable to parcels to which stricter standards may apply via separate agreements (e.g., a pre-annexation agreement).

- (1) The purpose of the URBZ is to establish minimal acceptable requirements for the design of buffers to protect the Uncompahgre River, its wetlands, and floodplains within the City limits; to protect the water quality of the Uncompahgre River within said jurisdiction; to protect riparian and aquatic ecosystems within said jurisdiction; and to provide for the environmentally sound use of land resources within said jurisdiction. Nothing in this Section shall be used as consideration in a pre-annexation agreement or in a negotiation for annexation of land into the City.
- (2) Measurement of the 100 feet URBZ, the two sub-areas within it, and all other related measurements shall be taken as follows: distance is measured horizontally from the

HWM, as defined herein, to the location in question. The HWM location used for any given measurement shall be taken from the side of the river closest to the building or other development in issue.

- (a) The following graphic illustrates how to measure the URBZ:
- (b) The URBZ provisions shall apply to:
 - (i) Any new development requiring a building permit, except for additions less than 20 percent of the existing building size that do not include any changes to an existing parking lot;
 - (ii) Any new development requiring site development approval;
 - (iii) Subdivision or the division of a tract or parcel of land into two or more parcels;
 - (iv) The improvement of property for any purpose involving construction;
 - (v) Combination of any two or more lots, tracts, or parcels of property for any purpose;
 - (vi) Placement of temporary structures that do not require a building permit or site development plan from the City;
 - (vii) The preparation of land for any of the above purposes.
- (c) Specific submittal requirements are listed in Appendix One. Upon submittal of the complete application, with all supporting documentation as may be required, the City land use staff shall provide a review of the same. Following City land use staff review, administrative approval may be granted if the development proposal is an allowed use in the URBZ or applicable URBZ sub-zone, or is a use by right in the URBZ or applicable URBZ sub-zone, and meets all applicable standards. Development proposals which are not allowed uses or uses by right in the URBZ or applicable URBZ sub-zone, or do not meet all the applicable standards, shall be forwarded to the City Planning Commission for review and approval, under procedures set forth below, accompanied by any comments and recommendations from the City land use staff.
- (d) All proposals shall identify on a site plan the designated Disturbance Envelope for that portion of the project that is proposed to encroach into the URBZ.
- (e) The applicant shall mark and identify the Disturbance Envelope on the ground in the field and shall maintain construction barrier fencing around the entire perimeter of the Disturbance Envelope throughout the period of construction, until final landscaping is completed. The applicant shall ensure that all surface disturbances are contained within the designated and marked Disturbance Envelope.
- (f) The URBZ consists of two sub-areas, as follows:
 - (i) Streamside Zone. This area is intended to preserve the natural riparian environment. In order to accomplish this goal, there is hereby established a 40-foot buffer area, measured as described above from the HWM.

Development in the Streamside Zone is subject to all other applicable permits. Setbacks created herein for the Streamside Zone are in addition to any setbacks which may be applied through the underlying zoning of a parcel.

- (1) The following are subject to a 40-foot setback from the HWM (i.e., the following shall not be placed or performed within the 40-foot Streamside Zone):
 - (a) Planting of non-native grass turf;
 - (b) Removal of native vegetation;
 - (c) Erection of fences;
 - (d) Construction of hard-surfaced trails that parallel the river;
 - (e) Construction of buildings, other than irrigation pump houses;
 - (f) Construction of parking lots (paved or gravel);
 - (g) Construction or installation of lighting fixtures;
 - (h) Construction or installation of engineered/structural water runoff treatment facilities (such as concrete vaults);
 - (i) Concrete rip-rap;
 - (j) Construction or installation of any other facility not listed in the allowed uses below, and not reasonably compatible with the riparian environment.
 - (2) The following actions, or construction of the following facilities or structures, are permitted within the 40-foot Streamside Zone:
 - (a) Government buildings and facilities;
 - (b) Hard-surfaced trails roughly perpendicular to the river;
 - (c) Soft-surfaced trails (crushed gravel, etc.) whether parallel or perpendicular to the river;
 - (d) Irrigation facilities (including pump houses);
 - (e) Boat put-ins (boat ramps should be soft-surfaced);
 - (f) Planting of native vegetation;
 - (g) Bank stabilization, and river or wildlife habitat restoration;
 - (h) Other uses may be permitted that are directly related to the river, and that do not conflict with the intent of this Section.
 - (3) Exceptions to the above regulations for the Streamside Zone shall be granted or denied through the variance procedures set forth in Section 11-7-13.
- (ii) Outer Zone. This area is intended to serve as a buffer between the Streamside Zone, and areas outside the URBZ. Most uses allowed within the underlying

zoning district are permitted within the Outer Zone, though certain uses have specific performance standards.

(1) Uses by right in the Outer Zone:

- (a) Water runoff treatment structures using swales, native vegetation, and similar measures;
- (b) Government buildings and facilities;
- (c) Fences which allow the passage of wildlife; said fences shall be designed as follows:
 - (i) No more than 40 inches in height;
 - (ii) A smooth bottom wire at least 16 inches above ground;
 - (iii) At least 12 inches between the top two wires;
 - (iv) No sharp edges, barbs, or similar devices are permitted;
 - (v) Sheep or woven-wire and wrought-iron style fences with spiked tips are not permitted.
- (d) Landscaping employing native vegetation types and compatible with the riparian environment;
- (e) Single-family homes;
- (f) Recreation trails (all types);
- (g) Buildings and facilities complying with the underlying zoning district and complying with all of the following performance standards:
 - (i) Structures with windows occupying a minimum of 50 percent of the linear river frontage of the building; and
 - (ii) At least one public entrance directly facing the river; and
 - (iii) Outdoor common areas, seating and/or dining areas; and
 - (iv) High quality building finishes such as brick or stone, or earth tone colors having matte finishes; and
 - (v) Well concealed trash dumpsters; and
 - (vi) Total building facade length shall be less than 50 feet in length parallel to the river; and
 - (vii) Buildings and facilities complying with these performance standards are exempt from the river buffer screening requirements set forth below;
 - (viii) Single-family homes are exempt from these performance standards, except for Subsection (2) (f) (ii) (1)(c) of this Section, as well as the Outer Zone performance standards set forth below.

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- (2) The following uses shall not be considered a use by right in the Outer Zone, and are subject to review as Conditional Uses under Section 11-7-6 (B) and Chapter 11-4 of this Title:
- (a) Loading docks;
 - (b) Landscaping with non-native vegetation;
 - (c) Engineered or structural water runoff treatment facilities (such as concrete vaults);
 - (d) Other industrial uses;
 - (e) Water treatment facilities employing structural vaults or similar technology are not permitted within the Outer Zone;
 - (f) Parking lots, whether paved or gravel;
 - (g) All other uses not listed in this Subsection.
- (3) Outer Zone Performance Standards. If the use or structure does not meet the performance standards in Subsection (2) (f)(ii) (1)(g) of this Section, the following shall be required:
- (a) A minimum 30-foot-wide vegetated buffer with extensive vertical plantings of native vegetation. Said vegetated buffer shall not overlap the 40-foot Streamside Zone.
 - (b) Tree height at maturity shall be as high or higher than the buildings being screened, and vegetation at maturity shall obscure any buildings or other facilities to the maximum extent possible.
 - (c) Said vegetated buffer shall be contiguous to the Streamside Zone, and located between the Streamside Zone, and any parking lot or building.
- (4) General Standards Applicable within the Outer Zone.
- (a) Removal of native vegetation is discouraged. Where removal of native vegetation is unavoidable, the removed area shall be mitigated by planting replacement native vegetation, at a minimum 1:1 ratio (measured in square feet, with a result that an equal amount of vegetation is planted, as was removed) within the URBZ.
 - (b) All setbacks oriented toward the river, applicable to or within the Outer Zone, shall be measured from the boundary line between the Streamside Zone, and the Outer Zone.
 - (c) For those zoning districts underlying the URBZ with no side or rear setbacks, the minimum side or rear setbacks shall be ten feet.
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- (d) New buildings, expansions to existing buildings, or parking lots, or driveways shall have a minimum setback of 20 feet from an existing or proposed trail or path.
 - (5) Exceptions to the standards and requirements regarding the Outer Zone shall be approved or denied through the procedures applicable to Conditional Uses, as set forth in Section 11-7-6 (B) and Chapter 11-4 of this Title.
 - (6) The following uses and structures are prohibited within the URBZ and its two sub-areas:
 - (a) Confined animal feedlots;
 - (b) Storage of hazardous materials or chemical fuels;
 - (c) Aboveground or underground petroleum storage facilities;
 - (d) Septic systems;
 - (e) Solid waste landfills;
 - (f) Junkyards, and salvage yards;
 - (g) Land application of biosolids;
 - (h) Subsurface discharges from wastewater treatment plants.
 - (7) All development within the URBZ shall obtain all applicable local, state and federal permits prior to undertaking any construction or land-disturbing activity.
 - (8) The provisions of the URBZ shall supersede the provisions of the underlying zone, and any other applicable overlay zone, when the provisions of the URBZ are more restrictive.

Sec. 11-7-11. Nonconforming uses, lots and structures

- (A) Any use, building or structure which at the effective date of the ordinance from which this Title is derived or at the time of annexation, if annexed subsequent to the effective date of the ordinance from which this Title is derived, was lawfully existing and maintained in accordance with the previously applicable County or City regulations and ordinances but which does not conform or comply with all of the regulations provided in this Chapter, may continue to be maintained and used as a lawful nonconforming use only in compliance with the provisions and limitations imposed by this Section. Uses, structures, or buildings which were unlawful or illegal and not in compliance with previously applicable regulations shall remain unlawful, illegal, and subject to abatement or other enforcement action.
- (B) If a use, building or structure is lawfully nonconforming in that it is not a use by right, or a conditional use which has been approved pursuant to the review provisions of Sections 11-7-6 (B) and 11-4-2 of this Title, the following shall apply:
 - (1) If the building or structure involved in the use is destroyed or damaged so that repair or reconstruction will cost more than 50 percent of the fair market value of the building or

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- structure after repair, it shall no longer be lawful to use the building or premises except in compliance with the use regulations for the district within which it is located.
- (2) If the nonconforming use is abandoned or discontinued for a period of six months, then the premises may only be used in compliance with the use regulations for the district within which it is located.
 - (3) The use may be continued only substantially as it effective date of the ordinance from which this Chapter is derived or of annexation, and no material change in the type of use shall be allowed, unless the Planning Commission determines, following the review procedure provided in Section 11-4-2 of this Title, that the criteria set out in Section 11-7-6 (B) will be met, and that the new use is a more restrictive use than the existing nonconforming use. Any change in use allowed pursuant to this provision shall not affect the future status of the use as a nonconforming use for all purposes of this Section.
 - (4) The extent or area of the premises utilized for or by the nonconforming use, building or structure, may not be materially extended or enlarged, or substantially structurally altered, unless the Planning Commission determines, following the review procedure of Section 11-4-2 of this Title, that the criteria set out in Section 11-7-6 (B) will be met.
- (C) If the use, building or structure is in compliance with the use regulations for the district within which it is located and is nonconforming only with respect to dimensional requirements, off-street parking requirements, or the regulations governing fences, hedges, walls, or canopies, the following provisions shall apply:
- (1) If the nonconformity of the building, use, or structure is abandoned, removed, or corrected for any length of time, such nonconformity may not be re-established.
 - (2) If the building or structure is damaged so that the cost of replacing or restoring it is greater than 50 percent of its fair market value after replacement, the building or structure may be repaired or replaced only in compliance with these Zoning Regulations.
 - (3) If the building or structure is damaged in such a way as to remove the nonconformity, the nonconforming feature may not be re-established by any repair or reconstruction, unless it is unfeasible to repair the building without re-establishing the nonconforming feature.
 - (4) No alteration may be made to the use, building, or structure which would increase the amount or degrees of the nonconforming feature. Changes in the use, building, or structure may be made which will decrease the degrees or amount of deviation from the requirements of this Chapter.
- (D) Nonconforming lots of record.
- (1) In any district in which single-family dwellings are permitted, a single-family residence and customary accessory buildings may be erected on any single lot of record, provided that the lot is in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though the lot fails to meet the dimensional requirements of the district in which it is located for
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area, width or both; provided, however, that the requirements of the district for minimum yard dimensions and lot coverage shall be met.

- (2) If two (2) or more lots or combinations of lots and portion of lots with continuous frontage in single ownership are of record, and part or all of the lots do not meet the requirements of the district in which they are located as to minimum area or frontage or both, the property together shall be considered to be an undivided parcel and no portion of the parcel shall be sold or used in a manner which diminishes compliance with minimum lot width and area requirements.

- (E) This Section shall not apply to signs. Nonconforming signs shall be governed by the provisions of Section 11-10-3 of this Title.

Sec. 11-7-12. Rezoning.

(A) *Rezoning.*

- (1) Amendments to the Official Zoning Map involving any change in the boundaries of an existing zoning district, or changing the designation of a district, shall be allowed only upon findings as follows:
 - (a) The amendment is not averse to the public health, safety and welfare; and
 - (b) The amendment is in substantial conformity with the Comprehensive Plan; or:
 - (i) The existing zoning is erroneous; or
 - (ii) Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.
- (2) Rezoning may be requested or initiated by the City Manager or the owner of any legal or equitable interest in the property or his representative. The rezoning shall be reviewed for compliance with the criteria of this Subsection in accordance with the review procedures of Chapter 11-4 of this Title. The City Council may initiate rezoning on its own motion, in which case the Council shall hold a hearing either in conjunction with second reading of a rezoning ordinance, or separately, in substantial compliance with the review procedures of Chapter 11-4 of this Title.
- (3) The City may impose conditions as necessary to ensure that the above criteria are met.

(B) *Zoning of Additions.*

- (1) The Planning Commission shall recommend to the Council a zoning district designation for all property annexed to the City not previously subject to City zoning, and shall follow the review procedures set out in Chapter 11-4 of this Title in arriving at its recommendation. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the annexation ordinance or thereafter. The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare.
- (2) The City may impose conditions on the zoning necessary to ensure that the above criteria are met and as appropriate to ensure comparability with the City's Comprehensive Plan.

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- (C) *Legislative Zoning*. Comprehensive review and re-enactment of all or a significant portion of the Official Zoning Map shall be a legislative action, and shall not be subject to the review procedures of Chapter 11-4 of this Title or any criteria set out in this Section.
 - (D) *Enactment by Ordinance*. No amendment, addition to or re-enactment of the Official Zoning Map shall become effective until enacted by an ordinance.

Sec. 11-7-13. Variances.

- (A) The Planning Commission may grant a variance from the requirements set out in this Chapter, if it determines, following the review procedures of Chapter 11-4 of this Title, that the criteria of this Section will be met. Provided, however, no variance shall be granted from provisions restricting uses by right, accessory and conditional uses within any zoning district.
- (B) Variances shall be granted only if all the following criteria are met:
 - (1) The variance will not adversely affect the public health, safety and welfare.
 - (2) Unusual physical circumstances shall exist, such as unusual lot size or shape, topography, or other physical conditions peculiar to the affected property, and violations of code shown by clear and convincing evidence that they were made in good faith, which make it unfeasible to develop or use the property in conformity with the provisions of this Chapter in question.
 - (3) The unusual circumstances have not been created as a result of the action or inaction of the applicants, other parties in interest with the applicant, or their or his predecessors in interest.
 - (4) The variance requested is the minimum variance that will afford relief and allow for reasonable use of the property.
 - (5) The variance will not result in development incompatible with other property or buildings in the area, and will not affect or impair the value or use or development of other property.
- (C) The burden shall be on the applicant to show that these criteria have been met.
- (D) Variances shall be granted for sign regulations only if all of the following criteria are met, in lieu of the criteria of Subsection (B) of this Section.
 - (1) The variance will not adversely affect the public health, safety and welfare.
 - (2) The variance requested is the minimum variance that will afford relief.
 - (3) The variance will not result in signage incompatible with other properties in the area and will not affect or impair the value, use of development of such properties.
 - (4) Strict compliance with the regulation presents practical difficulties or unnecessary hardships, and the variance sought falls within the spirit of the sign regulations (Chapter 10 of this Title) as a whole.