TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM

To: Mayor Tokunaga and Town Board of Trustees From: Martha Perkins, Community Development Director Via: Kent Brown, Town Administrator			Public Hearing Date: April 22, 2015
Agenda Item #	Action: x	Discussion:	Information:
Agenda Title: Public Hearing/Meeting for the Review and make a Recommendation for a request to amend the Town of Milliken's Official Zoning District Map for Fossil Park or Lot 2 Block 1 of Settlers Village Subdivision Plat 2nd Filing, from a PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District.			
Staff Recommendation: Staff recommends approval by the Town Board of Trustees.			

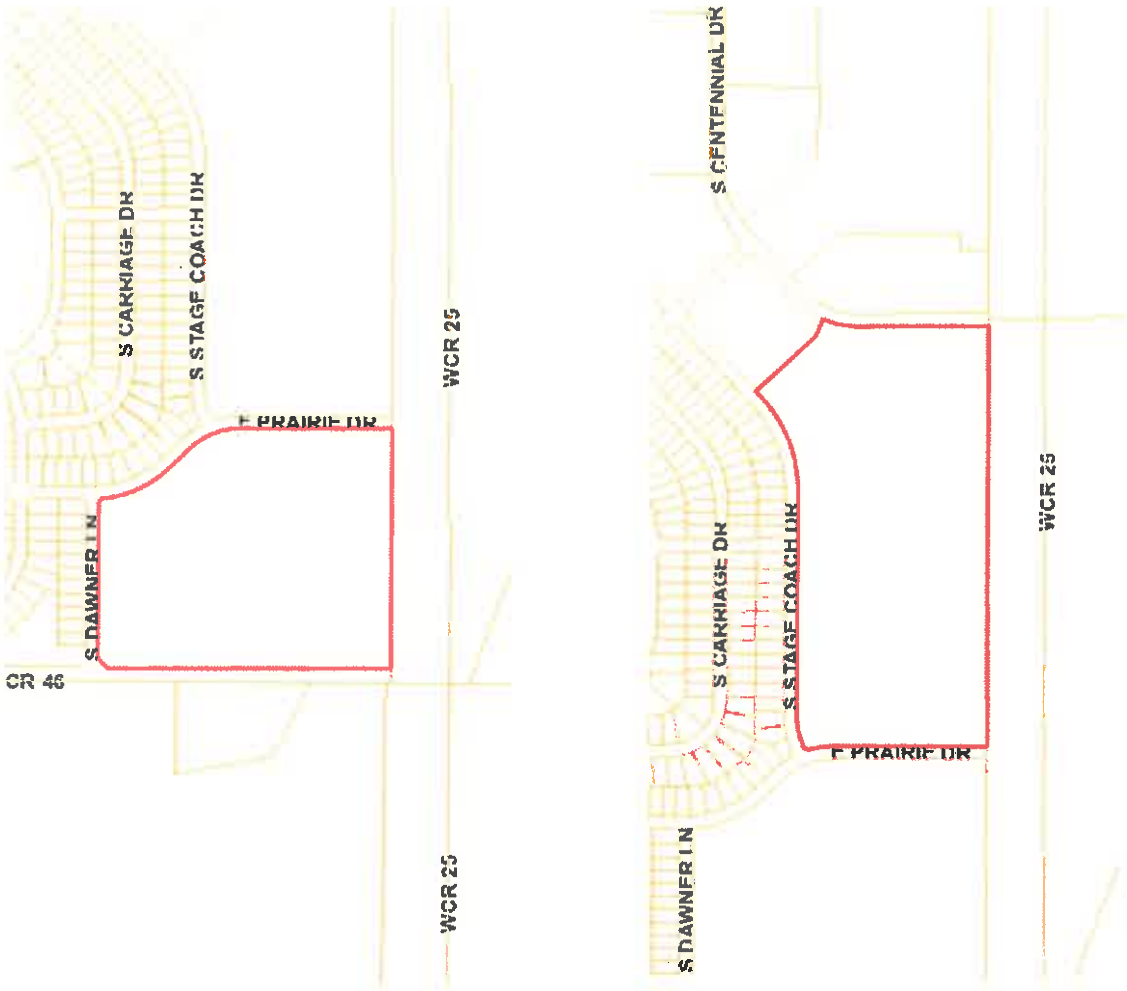
PURPOSE

To review and consider Ordinance 707, amending the Town of Milliken's Official Zoning District Map for Fossil Park or Lot 2 Block 1 of Settlers Village Subdivision Plat 2nd Filing, from a PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District. Lot Holding Investments, LLC, the owner, requested that this land consisting of approximately 50 acres, be rezoned. It currently sits vacant. The Planning and Zoning Commission reviewed the case in a public hearing on April 15, 2015 and recommended the Board's approval of the requested rezoning PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District for the 50 acres owned by Lot Holding Investments, LLC.

BACKGROUND INFORMATION

Type of Application:	Rezoning
Location:	Fossil Park or Lot 2 Block 1 of Settlers Village Subdivision Plat 2nd Filing
Applicant:	Lot Holding Investments, LLC.
Existing Land Use:	vacant
Surrounding Land Use:	North: Planned Unit Development – Recreational/Educational

	West: Planned Unit Development - Residential South: Planned Unit Development - Residential East: Agricultural
Zoning:	Planned Unit Development - Industrial
Comprehensive Plan	The Comprehensive Plan designates the site neighborhood as Planned Unit Development –Business/Industrial
Notice	Notice was mailed to Surrounding Property Owners within 300' of the proposed development via Certified/Return Receipt mail on April 1, 2015. The hearing was published in the *Johnstown Breeze* on March 15, 2015 Referral notices were mailed/emailed on February 28, 2015.



1. Property Description - Fossil Park Subdivision

A replat of several parcels of land situate in the East Half of Section Twelve (12), Township Four North (T.4N.), Range Sixty-seven West (R.67W.), Sixth Principal Meridian (6th P.M.), Town of Milliken, County of Weld, State of Colorado, the multiple parcels of land being more particularly described as follows:

Lot 2 of Block 1 of the Settlers Village Subdivision Second Filing, a plat recorded September 1, 2004 as Reception No. 3214671 of the Records of Weld County.
Together With;
Lot 1 of Block 5 of the Final Plat For Settlers Village, a plat recorded March 20, 2001 as Reception No. 2833840 of the Records of Weld County.
And Together With;
A strip of land being all that portion of the Prairie Drive Right of Way adjoining to Lot 1 of Block 5 of said Settlers Village as was dedicated by the Final Plat For Settlers Village, a plat recorded March 20, 2001 as Reception No. 2833840 of the Records of Weld County, and being Westerly of a Point of Curvature on said Prairie Drive, said inclusive strip of Right of Way generally being 50 feet wide by 585.30 feet in length and bounded on the Easterly side by the East boundary line of said Settlers Village.
Said described parcels of land contain a total of 50.094 acres, more or less (±).

COMPLIANCE WITH TOWN LAND USE CODE

This staff memorandum is prepared in accordance with the Land Use Code as outlined below. Staff complied the most relevant sections of the Code for the Planning and Zoning Commission's and Town Board's review of the application.

Sec. 16-1-50. Purpose.

The purpose of this Code is to create a vital, cohesive, well-designed community in order to enhance the Town of Milliken's character and further the citizens' goals as identified in the Comprehensive Plan. This Code is designed to:

(1) Encourage the most appropriate use of land through the Town;
(2) Encourage innovative, quality site design, architecture and landscaping;
(3) Encourage new developments to relate to Milliken's historic development pattern;
(4) Promote compact, well-defined, sustainable neighborhoods that enhance Milliken's character;
(5) Create livable neighborhoods that foster a sense of community and reduce dependency on private vehicles;
(6) Encourage the proper arrangement of streets in relation to existing and planned streets and ensure that streets facilitate safe, efficient and pleasant walking, biking and driving;
(7) Provide a variety of lot sizes and housing types in every neighborhood;
(8) Protect sensitive natural and historic areas and Milliken's environmental quality;
(9) Integrate a high-quality natural environment into the developed portions of the community;
(10) Facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks and other public requirements;
(11) Provide protection from geologic, flood and fire hazards and other dangers; and
(12) Promote the health, safety, morals and general welfare of Milliken residents. (Ord. 480 §1.5, 2003)

Sec. 16-1-60. Interpretation.

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern. (Ord. 480 §1.6, 2003)

Sec. 16-1-90. Relationship to Comprehensive Plan.

It is the intention of the Town that this Code implement the planning policies adopted in the Comprehensive Plan ("Comprehensive Plan") for the Town and its extraterritorial planning area. While this relationship is reaffirmed, it is the intent of the Town that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.

(1) Requirement for Comprehensive Plan Amendment. Where a development proposal would be in substantial conflict with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required prior to any zoning or subdivision approvals. A substantial conflict will exist when a development proposal would result in changes from the designations of the Land Use Plan Map, Transportation Plan Map or Parks and Open Space Map in the Comprehensive Plan.
(2) Criteria for Evaluating Amendment Proposals. Amendments to the Comprehensive Plan resulting from development proposals under this Code shall be evaluated according to the criteria and procedure outlined in the Comprehensive Plan. (Ord. 480 §1.9, 2003)

Sec. 16-1-150. Definitions.
Terms used in this Code are defined as follows:

Agricultural land means land that is being used for agricultural activities.

Applicant is the owner of land, the owner's authorized representative or the optionee of the land, as well as mineral owners and lessees.

Block means a unit of land, or a group of lots, bounded by streets or by a combination of streets and public lands or other rights-of-way other than an alley, waterways or any barrier to the continuity of development, or land which is designated as a block on any recorded subdivision tract.

Block Diversity Plan is a plan provided by an applicant that demonstrates that an adequate mix of housing models and styles are offered within a neighborhood and within each block face. The intent is to ensure that diverse and quality design elements are integrated into the character of residential homes and streets. A Block Diversity Plan shall be required for the following:

a. Single-family detached and duplex housing; and
b. Multi-family stacked units, including condominiums and apartments. The submittal requirements for the Block Diversity Plan are specified in Section 16-2-520, Residential Architecture (Single-Family Detached and Duplex Dwellings) of this Code; and Section 16-2-605, (Multi-Family Stacked Units, including Condominiums and Apartments) of this Code.

Block face means one (1) side of a street between two (2) consecutive intersections. For example, a *block face* can be one (1) side of a city block.

Board of Trustees (Board) means the governing board of the Town of Milliken.

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, including fences, which is governed by the following characteristics:

a. Is permanently affixed to the land; and
b. Has one (1) or more floors and a roof.

Building code means and includes any law, ordinance or code which is in force in the Town and which pertains to the design and construction of buildings and other structures, including swimming pools or to any components thereof, such as cooling and heating, plumbing, electricity and the like.

Building frontage means the horizontal, linear dimension of that side of a building which abuts a street, a parking area, a mall or other circulation area open to the public and has either a main window display or a public entrance to the building.

Building height means the vertical distance above median grade, as defined below, and the highest point of the coping of a flat roof, or to the deck line of a mansard roof, to the average height of the highest gables of a pitched or hipped roof, or to the top of the smokestack of an industrial building. The measurements may be taken from the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of any exterior wall of the building, when such sidewalk or ground surface is not more than ten (10) feet above median grade.

Character means those attributes, qualities and features that make up and distinguish a development project and give such project a sense of purpose, function, definition and uniqueness.

Commercial storage facility means cold storage plants and other such establishments renting storage.

Common open space means a parcel of land, an area of water, or a combination of land and water within the site designated for a planned unit development (PUD) designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development.

Community Design Principles and Development Standards means the standards in the Town of Milliken *Land Use Code* set forth in Article II of this Chapter.

Community facility means a facility or office building which is primarily intended to serve the recreational, educational, cultural, administrative or entertainment needs of the community as a whole, such as churches, museums, libraries, concert halls and similar establishments serving a public or quasi-public purpose, but excluding schools as defined herein.

Compatibility means the characteristics of different uses, activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, *compatibility* refers to the sensitivity of development proposals in maintaining the character of existing development.

Comprehensive Plan means the Town of Milliken Comprehensive Plan.

Conservation easement means a right of the owner of the easement to prohibit certain acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space or historical importance. See also Section 38-30.5-102, C.R.S. (NOTE: For a conservation easement to create tax benefits for the donor at the federal or state level, it must meet either or both of the Internal Revenue Service or State of Colorado definitions).

Density means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within the development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of units by the total acreage. Net density is calculated by dividing the [total number of units] by the [total acreage minus all publicly dedicated land].

Design standards means the standards that set forth specific improvements requirements.

Detention basin means a manmade or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of property, into natural or manmade outlets.

Developer means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into two (2) or more parcels. When appropriate in context, *development* shall also mean the act of developing or the result of development. *Development* shall also include:

a. Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land;
b. Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
c. Any change in use of land or a structure;
d. Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
e. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;
f. The demolition of a structure;
g. The clearing of land as an adjunct of construction;
h. The deposit of refuse, solid or liquid waste, or fill on a parcel of land;
i. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and
j. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

Development shall not include:

a. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
b. Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity;
c. The maintenance, renewal, improvement or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
d. The use of any land for an *agricultural activity* as defined in this Section.
e. A change in the ownership or form of ownership of any parcel or structure; or
f. The creation or termination of rights in land.

Development plan means the written and graphical documents that detail the provisions for development of a PUD development. These provisions may include, and need not be limited to, easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrian areas and parking facilities; and common open space and other public facilities.

Driveway means a constructed vehicular access serving one (1) or more properties and abutting a public or private road.

Dwelling means a building used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, town home dwellings and multi-family dwellings.

Dwelling, multi-family means a dwelling containing three (3) or more dwelling units, not including hotels, motels, lodges, fraternity houses and sorority houses and similar group accommodations, with or without accessory use facilities limited to an office for the building manager, laundry area and recreation facilities.

Dwelling, single-family means a building designed exclusively for occupancy by one (1) family, but not including mobile home, otherwise provided herein.

Dwelling, single-family attached means a residential building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

Ease Dwelling, single-family detached means a detached principal building, other than a mobile home, designed for and used as a single dwelling unit by one (1) family.

Dwelling, town home means an attached single-family dwelling in a building that contains two (2) or more dwellings, each of which is individually owned along with the land area that constitutes the lot on which the town home dwelling is located.

Dwelling, two-family means a building occupied by two (2) families living independently of each other.

Dwelling unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building and served by no more than one (1) gas meter and one (1) electric meter.
Easement means a right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.

Eave means the overhanging lower edge of a roof.

Elevation means the external vertical plane of a building. Elevations are considered different if they have different roof lines, building materials, details, color and overall stylistic expression.

Employees means the total number of persons to be employed in a building during normal periods of use.

Environmentally sensitive areas mean aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities and ridgelines.

Floodplain or flood hazard area means areas that have been designated by the Board of Trustees, the Colorado Water Conservation Board or FEMA as susceptible to flooding.

Flood-prone means areas subject to flooding that have not been designated by the Board of Trustees, the Colorado Water Conservancy Board or FEMA.

Floor area, also called *gross floor area*, means the total square footage of the building measured along the outside walls of the building and including each floor level, but not including open balconies, garages or other enclosed automobile parking areas and basement storage areas, and not including one-half (1/2) of all storage and display areas for durable goods.

Flow lines is used with reference to streets and means the curb lines, or if no curbs have been installed, the natural water-flow lines at the outside edge of the traveled portion of the street.

Footprint, also called *ground level footprint*, means the outline of the total area that is covered by a building's perimeter at ground level.
Freestanding sign means a sign which is not attached to any building and which is supported by a structure extending from the ground, or from an object on or in the ground.

Functional open space means open space which is large enough to serve a practical purpose such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances, or other hazards to the public.

Grade means:

a. The lowest point of elevation of the finished surface of the ground, pavement or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
b. The degree of rise or descent of a sloping surface.

Grade, finished means the final elevation of the ground surface after development.

Grade, natural means the elevation of the ground surface in its natural state, before manmade alterations.

Ground or monument sign means a type of freestanding sign in which the entire bottom of the sign or the bottom of the sign support structure is in contact with of is close to the ground and is independent of any other structure.

Home occupation means a business use of the house that is conducted inside the premises of the house or garage, does not change the basic residential character of the neighborhood and is subordinate to the residential use of the dwelling unit.

Homeowners association means the association set up to enforce the covenants and maintain all common areas and buildings for a development. Also known as *Owners Association.*

Human scale (pedestrian scale) means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

Industrial, heavy means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or

manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions. *Heavy industrial* also means those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments and transport terminals (truck terminals, public works yard, container storage).

Industrial, light means uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, *light industrial* means uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like.

Industrial, medium means a variety of uses, including warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations, establishments for food and beverage processing, for the sale and repair of farm machinery and diesel trucks and buses, lumberyards and builders supply facilities (with outdoor storage), machine shops, mini-storage facilities, outside storage facilities, railroad yards and stations, recycling facilities, transportation headquarters with incidental repair and servicing facilities, and utility service facilities with buildings and/or storage structures.

Infrastructure means those manmade structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

Integrate means to combine or coordinate separate elements (such as housing, recreation, jobs and shopping), so as to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

Inter-neighborhood connections mean connections (such as trails and roads) between neighborhoods.

Irrigation ditch or canal means a channel designed to transport irrigation water.

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests, and also each and every person who has the right to occupy all or a portion of a lot or all or a portion of a structure on a lot, under a lease or a tenancy. The word *landowner* is used in this Chapter synonymously with *owner* and *property owner*.

Landscaping means any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains or the like. *Landscaping* shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection and replacement of existing trees.

Lane means a private street; or a portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the abutting lots and not intended for general traffic circulation.

Lot means a designated parcel, tract or area of land established by plat or subdivision of at least a sufficient size to meet minimum requirements for use, street frontage coverage and area, and to provide required yards and other open spaces in the zoning district in which the lot is located, and which has direct access onto a public or private street.

Lot size means the total horizontal area within the lot lines of a lot; synonymous with *area of lot.*

Lot depth means the average distance between the front lot line and the rear lot line.
Lot, double frontage means a lot which fronts on one (1) public street and backs on another.

Lot, flag means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

Lot line, front means the property line dividing a lot from a street. On a corner lot, only one (1) street line shall be considered as a front line, and the shorter street frontage shall be considered the front line.

Lot line, rear means the line opposite the front lot line.

Lot line, side means any lot lines other than the front lot line or rear lot line.

Lot, reverse corner means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

Lot size means the total horizontal area within the lot lines of a lot; synonymous with *area of lot.*

Lot width means the distance parallel to the front lot line, measured at the front building setback line.

Lot width on a curving front lot line means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.

Mixed use means the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, including but not limited to residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

Mixed use building means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses, including but not limited to office, retail, public uses, personal service or entertainment uses.

Mixed use dwelling unit means the dwelling unit in a mixed use building. For purposes of calculating residential density, each dwelling unit shall count as one-half (½) dwelling unit.

Model home means a dwelling temporarily used as a sales office or demonstration home for a residential development under construction, said dwelling being used as an example of a product offered for sale to purchasers (by a realtor, building developer or contractor). The dwelling may be furnished but not occupied as a residence while being used as a *model home.*

Model plans means a set of standard plans for a home. Models are considered different if they have different floor plans, garage placement and building massing (form and structure).

Modified grid pattern means a grid pattern of streets and blocks adapted to the topography, unique natural features, environmental constraints and peripheral open space areas.

Municipality means an incorporated city or town.

Natural areas means floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, prairie dog colonies over twenty-five (25) acres in size, remnant native prairie habitat, plains cottonwood galleries, and any wetland greater than one-quarter (¼) acre in size.

Neighborhood means a geographical area, the focus of which are residential uses, but also may include a mixture of activities that people need to live. A *neighborhood* may include a diversity of housing types, schools, parks, shopping and jobs (frequently service-type), and a civic component.

Neighborhood commercial center means a shopping center that contains businesses that are intended to provide goods and services to the immediate neighborhood (within a one-quarter-mile radius).

Off-street parking area means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a *recreational vehicle, boat or truck storage* use, storage areas for landscaping and other bulk items or public streets and rights-of-way.

Oil and gas operation means any structure, facility or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.

Oil or gas well means a well, the principal production of which at the mouth of the well is oil or gas.

Open space means any land or water area with its surface open to the sky, which serves specific uses of: providing park and recreation opportunities, conserving natural areas, wildlife habitat, agricultural areas and environmental resources, structuring urban development form, and protecting areas of agricultural, archeological or historical significance. *Open space* shall not be considered synonymous with vacant or unused land but serves important urban functions. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances, or other hazards to the public.
Open space, common means an area permanently set aside for the common use and enjoyment of residents of a multifamily development.

Outdoor storage means the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

Containers and semi-trailers may not be used for residential or storage uses except on construction sites.

Outlot means a measured piece of land contained within subdivided land that is not a building lot. An outlot may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision, or be conveyed to an owners association.

Owner means the person or entity that owns the property under consideration.

Parcel means a tract or plot of land.

Park means an area open to the general public and reserved for recreational, educational or scenic purposes.

Parking lot means an off-street parking area or vehicular use area.

Pedestrian scale (human scale) means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

Phase means a portion of property that is being platted and engineered for development at the same time.

Plan means the map and supporting documentation for a development that includes but is not limited to lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas and conservation areas in accordance with the requirements of this Code.

Planned unit development (PUD) means a project of a single owner or a group of owners acting jointly, involving a related group of residences, businesses or industries and associated uses. Planned as a single entity, the project is subject to development and regulations as one (1) land-use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development includes usable, functional open space for the mutual benefit of the entire tract; and is designed to provide variety and diversity through the variation of normal zoning and subdivision standards so that maximum long-range benefits can be gained, and the unique features of the development or site preserved and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing and recording a plat.

Planning Area Boundary means the area surrounding the Town of Milliken that the Town of Milliken will consider annexing and developing. The Planning Area Boundary is delineated on the *Land Use Map* in the Town of Milliken Comprehensive Plan. *Plan* means the map and supporting documentation for a development that includes but is not limited to lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas and conservation areas in accordance with the requirements of this Code.

Plat means a map of certain described land prepared in accordance with the requirements of this Code and Section 38-51-106, C.R.S., as an instrument for recording of real estate interests with the County Clerk and Recorder.

Principal use means the main use of land or of a structure as distinguished from a subordinate or accessory use.

Professional office means an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.

Proof of ownership means ownership as specified in a current title insurance commitment or policy, or certification of title, issued by a title insurance company licensed by the State of Colorado.

Property means all real property subject to land use regulation by the Town of Milliken.

Property line means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which said lot, parcel or tract abuts.

Public means (when used as modifying a structure, activity or purpose) a structure, activity or purpose owned or operated by a government agency or by a nonprofit corporation with tax-exempt status under the Federal Internal Revenue Code, if the nonprofit corporation makes the structure or facility available for the use of all the members of the public without regard to membership status.

Public areas mean streets, parks, open spaces and other property designated or described as for public use on a map or plat of the Town of Milliken and fee title is vested in the Town of Milliken, other public body or a special district as defined in Section 32-1-103, C.R.S.

Public facilities mean those constructed facilities, including but not limited to transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities, and publicly owned buildings or facilities.

Public hearing means a meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, landscaped open space, off-street parking area, lot improvement or other facility that benefits the public.

Public utility means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same, or wireless telecommunication facilities.

Raw water means water rights acceptable to the Town of Milliken for domestic purposes, or water rights acceptable to the Town that may be used for irrigation of public facilities.
Recreational facilities: The following classes of recreational facilities have these meanings:

a. *Commercial recreational facilities* includes bowling alleys, health spas, swimming pools, tennis courts, miniature golf facilities and the like, operated on a commercial basis for use by the paying public.
b. *Private recreational facilities* includes golf courses, tennis courts, swimming pools, country clubs or recreational facilities for fraternal organizations, all of which are owned and operated by either nonprofit organizations with a limited membership or by private persons who own the facilities and are the only users of them;
c. *Public recreational facilities* means public parks, zoos, swimming pools, golf courses and other such facilities owned or operated by or under the direction of a government agency or a nonprofit corporation which falls within the definition of the word *public* as defined above.

Replat (resubdivision) means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the County Clerk and Recorder.

Retention basin means a pond, pool or basin used for permanent storage of water runoff.

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term *right-of-way* for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.

Setback means the required unoccupied open space between the nearest wall of a structure and the property line of the lot on which the structure is located.

Setback, front means the distance between the front lot line and the front wall of the main structure.

Setback, rear means the distance between the rear lot line and the back wall of the main structure.

Setback, side means the distance between any wall and the lot line other than the front and rear setbacks.

Sidewalk means the hard surface path within the street right-of-way for use by pedestrians and/or bicyclists.

Sign permit means a permit issued by the Town Building Official and which is required for any sign specified in this Code.

Significant wildlife habitat and migration corridors are areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source (www.ndis.nrel.colostate.edu) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

Site-built dwelling means a dwelling that is predominately constructed on-site and is not a factory built home or dwelling.

Site plan means a scale drawing of a lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets, and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.

Site specific development plan means the final plat of a subdivision or final development plan of a PUD (planned unit development) when approved by the Board of Trustees pursuant to Article V of this Chapter.

Street means a public way other than an alley that is capable or use by motor vehicles and which affords the principal means of access to abutting property.

Street furniture means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas and other outdoor spaces open to and used by the public.

Streetscape means the distinguishing character of a particular street within the public right-of-way, including paved materials, and the adjacent space extending along both sides of a street, including landscaping, sidewalks, medians, lighting, street furniture and signage.

Structure means anything constructed or erected on the ground, the use of which requires a more or less permanent location on the ground, but not including earthwork, ditches, canals, dams, reservoirs, pipelines, telephone, telegraph or electrical power poles, and public walks or curbs.

Subdivider or *developer* means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

Subdivision means the platting of a lot or the division of a lot, tract or parcel of land into two (2) or more lots, plots or sites.

Temporary use means a prospective use intended for limited duration, is to be located in a zoning district not permitting such use, and shall not include continuing a nonconforming use or building.

Title commitment means formal documentation from a title company listing the name of the owner of the property under consideration, the legal description of the property and any legal holdings on the property such as easements, rights-of-way or liens.

Town means the Town of Milliken located in Weld County, Colorado.
Town of Milliken Comprehensive Plan means the plan which was adopted by the Planning Commission and Board of Trustees in accordance with Section 31-23-206, C.R.S., to guide the future growth, protection and development of the Town of Milliken, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety and general welfare of its population.

Transportation headquarters means headquarters and parking areas for ambulance services, taxi services, bus services and other services involving the transportation of persons but not property.

Use means the type of activity for which land or a building is designated, arranged or intended and also means the activity which in fact regularly takes place upon the land.

Utility service facilities mean utilities substations and public lift-up pumping stations for domestic water and sanitary sewer service, microwave towers and other such installations; does not include any such installations which contain buildings or storage structures; and does not include transportation headquarters.

Vacant land means land that does not have development on it.

Vegetation means plants growing in a place, including but not limited to trees, shrubs, vines, grasses and groundcover.

Walkable means a distance of one-quarter (¼) mile or within a five-to-ten-minute walk.

Walkway means:

a. A right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path.
b. Any portion of a parking area restricted to the exclusive use of pedestrian travel.

Warehouse and distribution means a use engaged in storage, wholesale and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Warehousing means a business that stores or stocks merchandise or commodities.

Wholesale merchandise establishment means establishments for the sale of merchandise at the wholesale level, including those that warehouse merchandise in covered buildings.

Yard means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

Yard, front means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

Yard, front setback means the distance a building or structure must be placed from the back of the front property line.

Yard, rear means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

Yard, rear setback means the distance a building or structure must be placed from the back of the rear property line.

Yard, side means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

Yard, side setback means the distance a building or structure must be placed from the back of the side property line.

Zone district means a zone district of the Town of Milliken as established in Article III of this Chapter, unless the term is used in a context that clearly indicates that the term is meant to include both the zone districts of the Town of Milliken and the zone districts of an adjoining governmental jurisdiction. Also referred to as *zoning district.*

Zoning map means the official zoning map adopted by the Town of Milliken by ordinance, as amended. (Ord. 480 §1.15, 2003; Ord. 507 §1, 2005; Ord. 623 §1, 2010; Ord. 666 §§1, 2, 2012; Ord. 686 §1, 2013)

ARTICLE II
Community Design Principles and Development Standards

Division I General

Sec. 16-2-10. General provisions.

(a) Applicability. All development applications and building permit applications shall comply with the applicable standards contained in this Article.

(b) Relation to Zone District Standards (Section 16-3-490 of this Code). In the event of a conflict between a standard or requirement contained in Section 16-3-490 and this Article, the standard in Section 16-3-490 shall prevail. (Ord. 480 §2.1, 2003)

Sec. 16-2-15. Vision and intent.

(a) The intention of the Town of Milliken in enacting this Article is to clearly describe the Town's vision and to create a vital, cohesive, well-designed community in order to enhance its small-town character and further the citizens' goals as identified in the *Milliken Comprehensive Plan* ("Comprehensive Plan").

. . .Visions for Community is an attempt to bring into the city a new form of urban design, one which predicts a shift in the ways a community attempts to consider its physical city, its environment, its traditions, ritual life and mores and how they all cohere into patterns we call city. This "new" form of urban design is in truth quite old. It reflects one of humankind's most primordial activities – the making of "space" into "place." It is considered new in this particular time because it is counter to the way cities have evolved during the twentieth century, by responding to the marketplace. It is considered new because it emphasizes "community" as its guiding imperative instead of economic gain, and "vision" as its principal operative rather than opportunism.

– ***Dallas Visions for Community**, Dr. Gail Thomas*

(b) The Town has many attributes, but its greatest source of pride is its small-town character. This character is readily apparent and forms the foundation of the community. As the Town grows, the elements that contribute to this character must be strengthened and nurtured. As part of the comprehensive planning process, the citizens of the Town described these elements and their collective intentions for development of the community. Their vision and intentions are outlined below:

(1) Community.

a. The Town will continue to be peaceful, quiet and safe with citizens who know, respect and care for each other and have a general concern for the community as a whole.
b. Milliken will continue to be a wonderful place to raise a family. Residents will represent a broad diversity of people in terms of age, income, interests and activities. Special attention will be given to the youth and seniors of the community.
c. The Town's western and cultural heritage needs to be preserved through historic preservation efforts of its significant buildings and cultural events.
d. The architectural styles used for new businesses will provide interesting, high-quality buildings while maintaining the small-town charm of Milliken.
e. The development of new schools in the Town, as demand warrants, will be an important component of providing exceptional educational opportunities to the youth in the community.
f. A spirit of cooperation will be fostered with the surrounding communities and the County.

(2) Housing.
a. Neighborhoods will each have unique character and will be designed with pedestrian access and linkages to parks, schools, public facilities, downtown, commercial areas and the Milliken trail system.
b. Additional variety of housing types will be available to reflect the diversity within the community. New development will include varying housing types, such as: single-family homes, row houses, small clusters of multi-family units and apartments, terraced town homes, senior housing and some manufactured homes. The diversity of product types available will accommodate a variety of lifestyles and income levels.
c. New residential developments will reflect the diversity of existing neighborhoods and incorporate a variety of housing styles and types. Large-scale, "cookie-cutter" developments will not be allowed.
d. Affordable housing will be dispersed among the mixture.
e. Incentives will be investigated in order to upgrade existing housing that is in need of repair.

(3) Public facilities.
a. Educational opportunities for all ages will be provided in many of the parks and public facilities throughout the community.
b. The development of a new Community Center will be pursued to provide a pool, recreation and cultural center, fine arts theater and outdoor concert facility.
c. The Thompson River corridor will be developed as a primary greenway over time, in order to highlight the scenic corridor and provide recreational opportunities.
d. Newdevelopmentwillpayforitsinfrastructurecostsandrequiredservices.
e. There must be adequate capacity in water and wastewater facilities prior to approval of new development. Water storage will be achieved without causing unnecessary negative visual impact.
f. Convenient public transit will ultimately be made available to nearby urban areas. This includes the possibility of a connection to the commuter rail system that may one day be built between Fort Collins and Denver.

(4) Environment.
a. The natural environment, the Town's most distinguishing feature, will be preserved and integrated into all aspects of community design. Special attention

will be given to the design of the Town's entryways, as well as open space preservation at the outskirts of the Town limits.

b. Development will not be allowed on the bluffs, which are located north of the Big Thompson River and along ridgelines.

c. New developments will be built in harmony with the natural environment and take into consideration the physical constraints of the site, as well as aesthetic and ecological values of the land. Steep hillsides, drainageways and riparian areas will be protected.

(5) Economic vitality.

a. Downtown redevelopment will be an ongoing process to continue to strengthen the core community as an activity center and economic base.

b. Incentives will be investigated to encourage the development and expansion of local businesses in order to continue to create jobs within the community so that people can work and live in Town.

c. The Town's economic vitality will be achieved by allowing appropriate new development that enhances the community as a visitor destination and encourages small local businesses to thrive. A strong economy, combined with creative funding strategies, will enable the Town to invest in a number of desired amenities.

(c) Overall, Milliken will continue to be a wonderful place to call "home," with an unsurpassed quality of life. (Ord. 480 §2.2, 2003)

Sec. 16-3-10. General provisions.

ARTICLE III

Zoning

Division 1 General

(a) In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.

(b) Uniformity of Regulations. The regulations established by this Article within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Article, the following interpretations shall apply:

(1) No buildings, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, changed, constructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located. Where a lot is divided by a zoning district boundary line by the current official zoning map or by subsequent amendments to the zoning map, the zoning requirements may be extended within the lot for a distance of not more than twenty-five (25) feet.

(2) No building or other structure shall be erected or altered:

a. To exceed the height limitations.

b. To accommodate or house a greater number of families.

c. To occupy a greater percentage of the area.

d. To have narrower or smaller rear yards, front yards, side yards or other open spaces.

(3) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Article, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building unless specific exception therefore is

stated in this Article. Exceptions may be granted by the Board of Trustees for infill development.

(4) No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

(5) Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 16-3-210 of this Article is hereby specifically prohibited from that zone.

(6) The Town shall withhold building permits, occupancy certificates, final inspection certificates and any other certificates or permits provided for by any building code or other law, if a violation of this Article exists with respect to the land to which the permit or certificate pertains, or such a violation would exist upon the exercise of the privilege granted by the permit or certificate.

(7) No building shall hereafter be changed to a residential, business, commercial or industrial use, nor shall any new structure, building or land be occupied for a residential, business, commercial or industrial use unless the owner has first obtained a certificate of occupancy from the Building Official. Provided that the use is in conformance with the provisions of this Article, a certificate of occupancy shall be issued within a reasonable time after written notification that the building is ready for occupancy.

(8) The fact that land is zoned pursuant to this Article does not excuse compliance with Town subdivision regulations and community design and development standards.

(c) Conflict with Other Provisions of Law. Whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

(d) Conflict with Private Covenants or Deeds. In case of a conflict between this Code and any private restrictions imposed by covenant or deed, the responsibility of the Town of Milliken shall be limited to the enforcement of this Code. When provisions within this Code are more restrictive than those imposed by covenant or deed, or when any such private instruments are silent on matters contained within this Code, the provisions of this Code shall rule.

(e) Zoning of Annexed Territory.

(1) Zoning of land during annexation may be done in accordance with the procedure and notice requirements of this Section. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.

(2) Any area annexed shall be brought under the provisions of this Section and the map there under within ninety (90) days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such ninety-day period, or such portion thereof as is required to zone the territory, the Town shall refuse to issue any building permit for any portion or all of the newly annexed area.

(f) Previous Zoning Ordinance. At the effective date of the initial code, all territory in the Town had been zoned pursuant to an earlier zoning ordinance that had been amended from time to time. That earlier code, as it existed on the effective date of the initial code, will be referred to hereinafter as the "Zoning Ordinance." The zoning district classifications are assigned to the territory of the Town pursuant to the zoning map. The Zoning Ordinance and the last zoning map hereunder are hereby made a part of this Article, in order to facilitate application of the nonconforming use provisions of this Article and of certain additional provisions of this Article.

(g) Administrative Official. The Town Clerk shall administer this Article, with the assistance from other Town employees. The Town Clerk is referred to as the "administrative official" in this Article. The function of administering this Article shall include, but not necessarily be limited to, reviewing proposed construction projects and other proposed land use activities to determine compliance with this Article; interpreting words, phrases and concepts contained herein; obtaining factual material needed for making decisions which this Article requires to be made; and performing other duties specifically or impliedly delegated to the administration official by other sections of this Article.

(h) Enforcement Official.

(1) The Town Clerk shall be responsible for enforcing compliance with this Article. The Town Clerk may designate other Town employees assigned to the Town Clerk's office to assist him or her. The Town Clerk is also referred to as the "enforcement official" in this Article.

(2) The enforcement official shall have authority to notify owners or occupiers of land in the Town of violations of this Article, and to issue orders requiring compliance within specified times, not longer than six (6) months unless a longer time is specified by the Zoning Board of Appeals.

(3) The enforcement official may initiate proceedings in the Municipal Court for the punishment of persons who violate this Article. The issuance of a notice or order pursuant to Paragraph (2) above shall not be a prerequisite to the initiation of any such proceeding in the Municipal Court. (Ord. 480 §3.1, 2003)

Sec. 16-3-20. Purpose.

The purpose of this Zoning Code is to create a vital, cohesive, well-designed community in order to enhance the Town of Milliken's small-town character and further the citizens' goals as identified in the Comprehensive Plan. These zoning regulations are designed:

(1) To promote the health, safety, aesthetics, morals and general welfare of the community;

(2) To lessen congestion in the streets and enhance pedestrian and vehicular movement with the least detriment to environmental quality;

(3) To secure the safety of the people against fire, panic, flood waters and other dangers;

(4) To provide adequate light and air, to prevent the overcrowding of land and to avoid the undue concentration of population;

(5) To regulate the location of activities and developments which could produce significant changes in population density;

(6) To classify land use and distribute land development and utilize in a way which will benefit the community; to regulate development and activities in hazardous areas; and to regulate the use of land on the basis of the impact thereof on the community and other surrounding areas;

(7) To provide, in conjunction with other laws and regulations, for transportation, water, schools, sewage treatment and other public requirements;

(8) To preserve mineral lands for needed development;

(9) To provide for phased development of government services and facilities and to aid in realizing the policies, objectives and goals of the Comprehensive Plan;

(10) To encourage innovations in land uses in order to take advantage of improvements in the technology of land use and development;

(11) To encourage and facilitate the orderly growth and expansion of the Town, while at the same time protecting the environment in a manner consistent with constitutional rights;

(12) To construct new domestic water and sewer systems in areas which result in minimal environmental damage;
(13) To permit extension of domestic water and sewage systems in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the environmental and financial capacity of the area;
(14) To encourage traditional neighborhood residential mixed and multiple-use developments, so the growing demand for housing may be met;
(15) To protect the environmental and cultural heritage of the community; and
(16) To ensure quality development that will present and enhance the quality of life for residents of the Town. (Ord. 480 §3.2, 2003)

Division 2
Zoning Districts and Boundaries

Sec. 16-3-110. Zoning Districts.

In order to carry out the provisions of this Code, the Town is divided into the following zoning districts:

DR	Developing Resource
A	Agricultural
AE	Agricultural Estates
CD	Conservation
E-1	Estate Zoning – Rural Subdivision
R-1	Single-Family Residential
R-1E	Single-Family Estate Residential
R-2	Two-Family Residential
R-3	Multi-Family Residential
R-FH	Factory Built Housing District
R-M	Mobile Home Community
C-1	Office
C-2	Local Business
C-3	General Business
C-4	Service Business
MU-C-D	Mixed Use Commercial - Downtown
I-1	Light Industrial
I-2	Medium Industrial
I-3	Heavy Industrial
PUD	Planned Unit Development
HSP	Hillside/Ridgeline Protection Overlay

(Ord. 480 §3.3, 2003)

Sec. 16-3-120. Zoning District Map.

The boundaries and classifications of districts established are as depicted on a map entitled Town Zoning District Map, as may from time to time be revised, updated or redrafted. The official zoning district map adopted and to be used for present reference shall be that map bearing the most recent date of publication that has been signed by the Town Clerk and the Mayor.

(1) Interpretation of Boundary Lines.
   a. *Zoning District Boundaries* – In the event uncertainty is deemed to exist on the zoning district map, district boundaries shall be on section lines, lot lines, the center lines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines, such as streams; or other lines to be determined by the use of scales shown on the map. Where a lot is divided by a zoning

district boundary line at the time of enactment of the ordinance codified in this section or by subsequent amendments to that ordinance or this Article, either zone requirements may be extended within the lot for a distance of not more than twenty-five (25) feet. If, after application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the line shall be determined by the Town Clerk in a reasonable manner, considering the history of the Town's zoning ordinances and amendments, and other factors he or she deems relevant; his or her decision shall be subject to review by the Board of Trustees.

b. *Floodplain District Boundaries* – Floodplain district boundaries, as depicted by separate maps, are estimates based upon data verified from the Colorado Water Conservation Board, Federal Emergency Management Agency (FEMA) or the Board of Trustees on flood-prone areas.

(2) Amendment Upon Zoning or Modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official map to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

(3) Cost for Amending Zoning. Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the official zoning map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and fee agreement form.

(4) Public Inspection; Storage of Original. The official zoning district map shall be available and on display at the Town Hall during normal business hours. In addition, one (1) original duplicate Mylar copy of the current official map, and all prior official maps having been adopted, shall be held under lock and in a secure place by the Town Clerk, who shall act as custodian thereof, and the map shall not be amended, changed, updated or otherwise modified or let out of direct control of the Town Clerk for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the Town Clerk. (Ord. 480 §3.3, 2003)

Division 3

Uses by Right and Special Review Uses

Sec. 16-3-210. General application of uses.

(a) Uses designated as *uses by right* are allowed in a zone district as a matter of right. Uses classified as *uses by special review* are permitted upon the Board of Trustees' approval of a special use permit, pursuant to the procedures and standards set forth in Section 16-3-500 of this Article. Unless a use is designated as a *use by right* or *use by special review* or is classified as a legal nonconforming building, structure or use, it is not permitted.

(b) If this Article does not identify a land use as a use by right or an accessory use in a particular zoning district, or if the use is not identified as a use by special review, the use is prohibited in that district. If a particular land use is not permitted in a zoning district, a building that is designed for that land use also is prohibited. For example, if the sale of merchandise at retail is prohibited in a particular zoning district that does permit residential uses, a store building would be prohibited in that district, even though used as a residence. Similarly, if a land use is described by reference to a type of building, the only land uses intended to be covered by the description are those for which the building is designed.

(c) If a land use could be classified under two (2) or more land use descriptions, the land use shall be classified according to that description which most specifically describes it.

(d) The administrative official shall make the initial determination as to the land use descriptions contained in this Article that best identify an actual land use or proposed land use.

(e) Unspecified Uses. Notwithstanding the foregoing, land uses not otherwise identified in this Code may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Board of Trustees to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. The Board will determine if such unspecified use shall be considered a use by right, accessory use or use by special review within any particular zone district. Unless such determination is made, the use is not permitted. An applicant shall make a request for such determination in writing and submit it to the Town Clerk. The Board of Trustees shall consider the request at a regularly scheduled meeting. (Ord. 480 §3.4, 2003)

Sec. 16-3-220. Special classification of mineral lands and floodplain areas.

With one (1) exception, the zoning district classifications provided for in this Article refer to the uses of land, rather than to the characteristics of land itself. The one (1) exception is the Conservation District (CD), which is included in order to provide a means for classifying land by reference to its inherent characteristics. Therefore, all land in the Town that is subject to classification under the Conservation District (CD) shall be assigned only to that district, regardless of the use that an owner desires to make of such land. (Ord. 480 §3.4, 2003)

Sec. 16-3-230. Accessory uses and accessory buildings in residential zoning districts.

Land in residential zoning districts may be used in ways and for purposes that are clearly incidental to the principal uses. Such incidental uses in residential districts include, by way of example, the cultivation of flowers, plants and vegetables for private consumption and the maintenance and use of private swimming pools, hot tubs and tennis courts. Under no circumstance shall a commercial use be deemed an incidental use in a residential neighborhood. In addition to the general types of accessory uses authorized above, the following specific accessory uses are authorized in any of the residential zoning districts (AE, E-1, R-1, R-1E, R-2, R-3, R-M, R-MH):

(1) Home occupations that comply with the provisions of Section 16-3-620 of this Article.

(2) Accessory buildings. Such buildings shall comply with the requirements set forth in Section 16-3-225 above.

(3) Satellite dishes.

(4) Fences. (Ord. 480 §3.4, 2003; Ord. 572, 2008)

Sec. 16-3-240. Accessory uses and accessory buildings in commercial districts.

Land in commercial zoning districts may be used in ways and for purposes that are clearly incidental to the principal uses. Accessory uses and accessory buildings in commercial districts shall include:

(1) Garden areas.

(2) Playground areas for the convenience of shoppers.

(3) Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.

(4) Accessory buildings for the storage of supplies and materials used by employees. External storage of supplies and/or materials is prohibited except within an approved accessory building. Fences are not considered accessory buildings. (Ord. 480 §3.4, 2003; Ord. 572, 2008)

Sec. 16-3-250. Uses by special review in commercial districts, generally.
One (1) or more of the following uses may be made of land in any commercial zoning district if special approval is given by the Board of Trustees, pursuant to the procedures and standards set forth in Section 16-3-500 of this Article:

(1) Uses by right in the residential districts, not including the R-M and R-MH Districts.
(2) Cemeteries.
(3) Child care centers.
(4) Radio towers over sixty (60) feet in height.
(5) Signs not meeting the requirements of Article VII of this Chapter.
(6) Uses by special review other than those specified in this Section are permitted in some but not all of the commercial zoning districts, to the extent that those additional uses by special review are listed in this Article. (Ord. 480 §3.4, 2003)

Sec. 16-3-260. Accessory uses and accessory buildings in industrial districts.
Land in any particular industrial district may be used in ways and purposes that are clearly incidental to the principal uses authorized in the district. Accessory uses and accessory buildings in industrial districts shall include:

(1) Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.
(2) Accessory buildings for the storage of supplies and materials used by employees.
(3) Accessory buildings for the housing of guards, night watchmen or maintenance personnel. (Ord. 480 §3.4, 2003; Ord. 572, 2008)

Sec. 16-3-320. R-1 Single-Family Residential.

(a) Intent. This is a low-density housing district intended primarily for single-family uses on individual lots. This zone is characterized by tree-lined local streets, interconnected pedestrian circulation system and proximity to schools and parks.
(b) Uses by Right. Uses by right in the R-1 District shall be as follows:
    (1) Accessory buildings and accessory uses.
    (2) oster care homes.
    (3) Home occupations.
    (4) Public and private schools for primary education (grades K-12).
    (5) Public recreational facilities.
    (6) Single-family detached dwellings.
(c) Uses by Special Review. Uses by special review in the R-1 District shall be as follows:
    (1) Accessory dwellings when associated with a use by right.
    (2) Child care centers.
    (3) Community facilities.
    (4) Churches.
    (5) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).
    (6) Group homes for up to eight (8) developmentally disabled, mentally ill or elderly persons.
    (7) Long-term care facilities.
    (8) Private recreational facilities.
    (9) Police and fire stations or facilities.
    (10) Public and private schools for secondary education.
    (11) Signs not meeting the requirements of Article VII of this Chapter.
    (12) Utility service facilities. (Ord. 480 §3.4, 2003; Ord. 666 §5, 2012)

Sec. 16-3-430. I-1 Light Industrial District.

(a) Intent. This zoning district is intended to provide locations for a variety of light industrial uses, research and development offices and institutions.

(b) Uses by Right. Uses by right in the I-1 District shall be as follows:

(1) Accessory uses and accessory buildings.
(2) Agricultural services establishments.
(3) All uses by right in the A District.
(4) Auto, recreational vehicle, boat and truck sales.
(5) Churches.
(6) Commercial recreational facilities.
(7) Commercial storage facilities.
(8) Community facilities.
(9) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
(10) Entertainment facilities and theaters, seating capacity over one thousand (1,000).
(11) Establishments for the rental of tools, equipment and vehicles.
(12) Farming, ranching and gardening.
(13) Gasoline service stations, repair garages and car washes.
(14) Grazing and keeping of livestock.
(15) Lumberyards, not including those with outside storage areas.
(16) Manufacturing, assembly packaging or processing from previously prepared materials.
(17) Mini-storage facilities.
(18) Newspaper plants.
(19) Parking lots and parking garages.
(20) Police and fire stations and facilities.
(21) Print shops.
(22) Private recreational facilities.
(23) Professional offices.
(24) Research, experimental or testing laboratories.
(25) Small equipment repair facilities.
(26) Transportation headquarters, without repair and servicing facilities or capability.
(27) Wholesale merchandise establishments.
(28) Water treatment and wastewater treatment plants.
(29) Wireless telecommunications facilities (as permitted in Section 16-3-610 of this Article).
(30) Workshops and custom small industry uses.
(31) Utility service facilities.

(c) Uses by Special Review. Uses by special review in the I-1 District shall be as follows:

(1) One (1) or more uses by right in commercial districts that are not specifically permitted as uses by right in the industrial districts.16-3-30
(2) Establishments for food and beverage processing.
(3) Establishments for the sale and repair of farm machinery and diesel trucks and buses.
(4) Public recreation facilities.
(5) Signs not meeting the requirements of Article VII of this Chapter.
(6) Utility service facilities with buildings and/or storage structures.
(7) Mini-storage facilities. (Ord. 480 §3.4, 2003; Ord. 659 §1, 2012)

Sec. 16-3-440. I-2 Medium Industrial District.

(a) Intent. This zoning district is intended to provide a location for a variety of medium industrial uses, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations.

(b) Uses by Right. Uses by right in the I-2 District shall be as follows:
  (1) Agricultural services establishments.
  (2) All uses by right in the I-1 District.
  (3) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
  (4) Establishments for food and beverage processing.
  (5) Establishments for the sale and repair of farm machinery and diesel trucks and buses.
  (6) Farming, ranching and gardening.
  (7) Grazing and keeping of livestock.
  (8) Lumberyards and builders supply facilities (with outdoor storage).
  (9) Machine shops.
  (10) Mini-storage facilities.
  (11) Outside storage facilities.
  (12) Railroad yards and stations.
  (13) Recycling facilities.
  (14) Transportation headquarters, with incidental repair and servicing facilities.
  (15) Utility service facilities with buildings and/or storage structures.

(c) Uses by Special Review. Uses by special review in the I-2 District shall be as follows:
  (1) Establishments for bulk storage of flammable liquids and gases.
  (2) Radio towers over sixty (60) feet in height.
  (3) Signs not meeting the requirements of Article VII of this Chapter. (Ord. 480 §3.4, 2003; Ord. 659 §1, 2012)

Sec. 16-3-450. I-3 Heavy Industrial District.

(a) Intent. This zoning district is intended to provide a location for a variety of heavy industrial uses.

(b) Uses by Right. Uses by right in the I-3 District shall be as follows: All uses by right in the I-2 District.

(c) Uses by Special Review. Uses by special review in the I-3 District shall be as follows:
  (1) One (1) or more uses by right in commercial districts that are not specifically permitted as uses by right in the industrial districts.
  (2) Agricultural service establishments.
  (3) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced premises.
  (4) Facilities for the manufacturing and storage of explosives.
  (5) Farming, ranching and gardening.
  (6) Foundries.
  (7) Grain feed elevators.
  (8) Grazing and keeping of livestock.
  (9) Junkyards and salvage operations.
  (10) Livestock processing facility.
  (11) Signs not meeting the requirements of Article VII of this Chapter. (Ord. 629, 2010; Ord. 659 §1, 2012)

Sec. 16-3-460. PUD Planned Unit Development District.

(a) Intent.

(1) The intent and purpose of the Planned Unit Development (PUD) District is to permit and encourage innovative design and high quality, master-planned developments. This district is created to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The PUD District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

(2) This Article is intended to supersede the provisions of, and prevent the application in this Town of, the Planned Unit Development Act of 1972 (Title 24, Article 67, C.R.S.), except that this Article shall not be deemed to supersede the Planned Unit Development Act of 1972, appearing as Article 67 of Title 24, C.R.S., with respect to the provisions of that act pertaining to the continued maintenance and upkeep of open space and other commonly owned areas and the consequences of failing to maintain such areas.

(b) Permitted Uses.

(1) Any combination of uses may be permitted in a PUD District so long as the Board of Trustees determines that such uses are compatible with one another and with any property that could reasonably be impacted by the development of any proposed PUD. Compatibility shall be determined based on the extent to which any proposed use of land within the PUD would unreasonably interfere with the use and enjoyment of any other use of land within the PUD. Factors which may be considered include the type and intensity of uses, the extent to which uses complement one another, the bulk of structures associated with use, and the noise, light, traffic, vibrations and other similar external impacts associated with each use.

(2) The density and/or intensity of development shall be based on the capacity of the land proposed for development to support the PUD as well as the impact of the proposed development on Town services and facilities and on neighboring property that reasonably could be impacted by the proposed development. Capacity of the land shall be determined based on the size, topography and geological and environmental limitations of the land proposed for development. Notwithstanding the foregoing, residential development shall not exceed a gross density of twelve (12) units per acre; commercial development shall not exceed a floor area ratio of 0.5; office development shall not exceed a floor area ratio of 4.0; industrial development shall not exceed a floor area ratio of 1.0. In a mixed-use PUD, the gross density shall be calculated based on the gross land area devoted to each type of use.

(c) PUD Restrictions and General Requirements. Properties utilizing the PUD District shall be subject to the following:

(1) All PUD applications shall include a gross land area of not less than two (2) acres, except in the R-M and R-MH Districts, where the gross land area shall not be less than six (6) acres. Upon the specific request of the landowner or upon the recommendation of the Board of Trustees, the two-acre requirement set forth in this Section may be waived if, after considering the land use requested, the Board of Trustees finds that such waiver would be beneficial to the Town and foster the objectives of this Code.

(2) The area of land for the PUD may be controlled by one (1) or more landowners and must be developed under unified control or a unified plan of development.

(3) Areas designated as private streets and/or common open space including land, an area of water or a combination of land and water within the site designated for a PUD shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD; and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.

(4) All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space or other standards within the existing land use regulations, except those development standards that are not open to modification (see Section 16-4-530 of this Code).

(5) No PUD may be approved by the Town without the written consent of the landowner whose property is included within the PUD.

(d) PUD Approval Procedure.

(1) All PUD District applications shall be submitted and processed simultaneously with the processing of subdivision applications for the property. The processes set forth in Sections 16-4-160 through 16-4-190 of this Code for major subdivisions shall be followed, including all preapplication conferences, Planning Commission visioning meetings, sketch plan, preliminary plat and final plat applications, and all required public hearings. Scheduling requirements for PUD applications shall match those specified for sketch plans and preliminary and final plats. In addition, an application for a PUD District amendment to the official zoning map shall be processed and subject to public hearings in the same manner as for other amendments to the official zoning map, as outlined in Section 16-3- 540 of this Code.

(2) Rezoning to a PUD District shall occur concurrently with a preliminary plat/ preliminary PUD development plan. Public hearings for the zoning of a property as a PUD District and for Preliminary PUD development plan approval may be combined or can occur separately. Development within a PUD District cannot occur unless and until a final plat for the portion of the property to be developed has been approved and recorded as provided in Article IV of this Chapter.

(3) Upon approval of a final PUD development plan, the Town, through its Board of Trustees, shall adopt an ordinance establishing the PUD District for the property in accordance with that plan.

(4) In addition to all of the information required as part of the sketch plan, preliminary plat and final plat application packages (as specified in Sections 16-4-160 through 16-4-190 of this Code), applications for a PUD development plan and PUD District shall include additional information as outlined below.

(e) Sketch PUD Development Plan Application Submittal Requirements.

(1) PUD application fee.

(2) Written PUD description as part of the general development information which includes:

a. List all subdivision regulation and community design and development standards exceptions proposed for the PUD and how the PUD complies with Section 16-2-20 of this Chapter.

b. Identify the underlying zoning districts for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. If any conditional uses are requested, explain how the

conditional use review criteria (refer to Section 16- 3-500 of this Article) will be addressed.

c. Identify and explain the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or if the width of the local street right-of- way is decreased by eliminating on-street parking, then there will be designated parking areas within five hundred (500) feet of all residences, etc.). All proposed benefits must offset the proposed modifications.

d. Explain how the proposed PUD will be compatible with adjacent neighborhoods that now exist or are proposed in the future. Describe any proposed buffering techniques that serve to achieve such compatibility.

e. Provide any additional relevant information that the Town may deem necessary. Preliminary PUD Development Plan Application Submittal Requirements.

(1) PUD application fee.

(2) Written PUD description as part of the general development information which includes:

a. List all subdivision regulations, community design and development standards and community design principle exceptions being proposed for the PUD and explain why such exceptions are justified.

b. Identify the underlying zoning districts for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. Provide a comparison between the proposed preliminary PUD plan to the elements and standards of the underlying zone districts as contained in this Code. If any conditional uses are requested, explain how the conditional use review criteria (refer to Section 16-3-530 of this Article) will be addressed.

c. Describe how the proposed PUD rezoning satisfies one or more of the criteria for amendments to the official zoning map (Section 16-3-530 of this Code).

d. Identify and explain the benefits that will be provided by the PUD to offset the impact of the modifications requested. The proposed benefits must offset the proposed modifications.

e. Explain how the proposed PUD will be compatible with adjacent neighborhoods that now exist or are proposed in the future. Describe buffering techniques that serve to achieve such compatibility.

f. An explanation of how the preliminary PUD development plan is consistent with the sketch PUD development plan, or if there are differences, the rationale for the changes.

g. Draft copies of owners' association documents (covenants, conditions, restrictions and any architectural design guidelines) that provide an acceptable program for the continuing maintenance of open space, recreational areas, walkways and private streets within the PUD; that detail the type of organizational structure responsible for such ongoing maintenance; and that provide for architectural review based on the design guidelines.

h. Provide any additional relevant information that the Town may deem necessary.

(3) Preliminary PUD Development Plan Map. Prepare the preliminary PUD development plan map using the preliminary plat map as the base. Refer to Section 16-4-170 of this Code for drawing standards and format. Include on the base a clear graphic and/or written representation of:

a. All principal, conditional and accessory uses within each land use category within the PUD; i.e., single-family, multi-family, commercial, etc., either listed specifically or by reference to the zoning districts within the Town. In particular, note any modifications to the principal, conditional and accessory uses of the underlying zone districts.

b. Standards for principal and accessory uses within each land use category to include:

1. Minimum lot area.
2. Maximum lot coverage.
3. Maximum floor area ratio (total floor area to total lot area).
4. Maximum building height.
5. Parking requirements for principal, accessory and conditional uses.
6. Provide any additional relevant information that the Town may deem necessary.

(4) Proposed phasing for the development.

(g) Final PUD Development Plan Application Submittal Requirements.

(1) PUD application fee.

(2) Written PUD description as part of the general development information, based on the materials submitted for the preliminary PUD development plan and on comments received from the Town at the time of preliminary plan review. Include all of the items listed above for the preliminary PUD development plan, in finalized form. Also include an explanation of how the final PUD development plan is consistent with the preliminary PUD development plan, or if there are differences, the rationale for the changes.

(3) Final PUD Development Plan Map. Prepare the final PUD development plan map using the final plat map as the base. Refer to Section 16-4-180 of this Code for drawing standards and format. See the Workbook for sample certificates for the owner, Planning Commission, Board of Trustees and Clerk and Recorder. Include on the base a clear graphic and written representation of all of the information/items required for a preliminary PUD development plan as listed above, in finalized form.

(4) Provide any additional relevant information that the Town may deem necessary.

(h) PUD Review Criteria.

(1) Sketch PUD Development Plan Review Criteria. The following review criteria will be used by the Staff, Planning Commission and Board of Trustees to evaluate all PUD applications at the time of sketch PUD plan/sketch plan review:

a. The proposed benefits offset the proposed exceptions to the zoning and subdivision standards, and that such exceptions are in the best interest of the public health, safety and welfare.

b. The proposed PUD conforms to the PUD restrictions, and the proposed zoning is compatible with the surrounding land uses.

c. The PUD proposes creative and innovative design and high quality development, thereby protecting and promoting public safety, convenience, health and general welfare.

d. The uses and densities in the proposed PUD are compatible, and will be effectively integrated with adjacent neighborhoods that now exist or are proposed in the future.

e. The proposed PUD is in general conformance with the Comprehensive Plan, Community Design and Development Standards and the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan and the criteria as set forth in Section 16-2-20 of this Code.

f. One (1) or more of the criteria for amendment of the official zoning map has been satisfied.

(2) Preliminary PUD Development Plan Review Criteria. In addition to all of the review criteria for a sketch PUD development plan, the following review criteria will be used by the Town Staff and Board of Trustees to evaluate all PUD applications at the time of preliminary PUD plan/preliminary plat:

a. The preliminary PUD development plan is substantially consistent with the sketch development plan as approved by the Board of Trustees.

b. All sketch PUD development plan conditions of approval have been adequately addressed on the preliminary PUD development plan.

(3) Final PUD Development Plan Review Criteria. In addition to all of the review criteria for a preliminary PUD development plan, the following review criteria will be used by the Town Staff and Board of Trustees to evaluate all PUD applications at the time of final PUD plan/final plat:

a. The final PUD development plan is substantially consistent with the preliminary PUD development plan as approved by the Board of Trustees.

b. All preliminary PUD development plan conditions of approval have been adequately addressed on the final PUD development plan.

(i) Compliance with PUD District/Final Development Plan. The Board of Trustees may initiate the process to repeal the ordinance establishing the PUD District if:

(1) The project for which the PUD zone was established is not carried out pursuant to the approved final PUD development plan; provided, however, that the Board of Trustees may approve appropriate modifications to the final PUD development plan from time to time prior to completion of the proposed development; or

(2) Building activity for the PUD District has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Board of Trustees.

(j) Land Previously Zoned PUD. Any land previously zoned PUD, and partially developed prior to the date of adoption of this Code, may continue and complete such development under the terms and conditions of approval for that PUD; subject, however, to the provision that any major modifications, as determined by the Town, to that PUD shall require review and approval under the new requirements of this Code. (Ord. 480 §3.4, 2003)

Sec. 16-3-540. Amendments.

(a) Initiation of Amendments to Text or Official Zoning Map. The Board of Trustees may from time to time amend, supplement, change or repeal the regulations and provisions of this Article. Amendments to the text of this Code may be initiated by the Board of Trustees, Town Staff or Planning Commission, or by written application of any property owner or resident of the Town. Amendments to the zoning district map may be initiated by the Board of Trustees, Town Staff or the Planning Commission, or by a real property owner in the area to be included in the proposed amendment.

(b) General Rezoning of the Town. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of this Code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in, the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.

(c) Zoning Amendment Application Process.

(1) Step 1: Optional Preapplication Conference. The applicant may attend a preapplication conference with a representative from the Town. The purpose of the meeting is to discuss the zoning amendment, submittal requirements and review process.

(2) Step 2: Zoning Amendment Application Submittal. The applicant shall submit one (1) copy of the complete zoning amendment application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Board of Trustees. Note: In the case of text amendments, only Items a and b are required.

a. Completed Land Use Application Form, Zoning Amendment – Technical Criteria Form (see Workbook), application fee and fee agreement.

b. Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the deposit. The Town shall provide the applicant with a copy of the most current fee schedule and fee agreement form.

c. Legal Notice Form. The applicant shall prepare the legal notice form and return it to the Town with an electronic copy of the legal description in MSWordÔ format.

d. Mineral Rights Affidavit. The mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the sketch plan application submittal.

e. A written description of the proposed change to the text of this Article, including the citation of the portion of the Article to be changed and the wording of the proposed change. The description must provide the rationale for the proposed change, citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rational of the proposed change. Particular attention should be given to addressing the criteria listed in Subsection (d) below.

f. A legal description for all property to be considered for rezoning.

g. Current proof of ownership in the form of title insurance issued with thirty (30) days of submission of the application (for zoning map amendments only).

h. A zoning amendment map of the area included in the proposed change, twenty-four (24) inches high by thirty-six (36) inches wide, with the following information:

1. North arrow, scale 1" = 100' or 1" = 200', and date of preparation.
2. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.
3. Legal description of the area to be zoned (entire area and individual zoning districts). In unsubdivided property, zone boundaries shall be determined by a metes and bounds description.
4. Location and boundaries, including dimensions, of the property proposed for rezoning. Note: Zone boundaries are to be the centerlines of physical streets, roads, highways, alleys, railroad rights-of-way and channelized waterways, or such lines extended.
5. The acreage or square footage contained within the property proposed for rezoning.
6. All existing land uses in the proposed rezoning area.
7. Zoning and existing land uses on all lands adjacent to the proposed rezoning.
8. The location and dimensions for all existing public rights-of-way, including streets, and centerlines of watercourses within and adjacent to the rezoning.

9. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.
10. Certificate blocks for the Surveyor, Planning Commission, Board of Trustees, and County Clerk and Recorder (see Workbook for examples).
11. An AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM-formatted disk or by other acceptable electronic transfer shall also be provided.

i. A written statement describing the proposal and addressing the following points:
   1. Need for the proposed rezoning.
   2. Present and future impacts on the existing adjacent zone districts, uses and physical character of the surrounding area.
   3. Impact of the proposed zone on area accesses and traffic patterns.
   4. Availability of utilities for any potential development.
   5. Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools and transit.
   6. The relationship between the proposal and the Comprehensive Plan.
   7. Public benefits arising from the proposal.

j. Surrounding and Interested Property Ownership Report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred (300] feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

k. Public Hearing Notification Envelopes. Two (2) sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town's address as the mailing address and return address and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.

l. It is the applicant's responsibility to ensure that accurate and complete information is provided.

(3) Step 3: Zoning Amendment Application Certification of Completion. Within a reasonable period of time, Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Zoning Amendment Technical Criteria form) to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.

(4) Step 4: Final Staff Review and Report to Planning Commission. Staff shall complete a final review of the resubmitted materials and prepare a report to the Planning Commission explaining how the application is or is not consistent with the Criteria for Amendments to the Official Zoning Map or Criteria for Amendments to the Text of the Zoning Code.

(5) Step 5: Set Zoning Amendment Public Hearing and Complete Public Notification Process. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies no less than twenty-one (21) days before the initial Planning Commission public hearing. Such notice shall not be required for text

amendments. The Town Clerk shall also publish notice in a newspaper of general circulation. For zoning map amendments, the Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant. The applicant shall furnish to the Town an affidavit of posting on a form provided by the Town Clerk. The hearing may be held no less than thirty (30) days from the date of property posting and newspaper publication. If the zoning amendment request is accompanying another application that is scheduled for public hearings before the Planning Commission and Board of Trustees, one (1) public hearing may be held on both applications.

(6) Step 6: Planning Commission Public Meeting and Action on the Zoning Amendment. The Planning Commission shall hold a public hearing to review the zoning amendment based on the Criteria for Amendments to the Official Zoning Map or the Criteria for Text Amendments to the Zoning Code. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve or deny the zoning amendment application.

(7) Step 7: Finalize Zoning Amendment Based on Planning Commission Comments. The applicant shall revise the zoning amendment application based on the Planning Commission's comments and submit it to the Town.

(8) Step 8: Notify Parties of Interest. Not less than twenty-one (21) days before the date scheduled for the initial Board of Trustees public hearing, Staff shall notify surrounding property owners within three hundred (300) feet, mineral interest owners of record, mineral and oil and gas lessees for the property and other interested parties. The notice shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. Such notice shall not be required for text amendments.

(9) Step 9: Set Board of Trustees Public Hearing and Complete Public Notification Process. The Board of Trustees shall schedule a public hearing for the purpose of taking action on the zoning amendment. The Town Clerk shall publish notice in a newspaper of general circulation. The hearing may be held no less than thirty (30) days from the date of advertising.

(10) Step 10: Board of Trustees Public Hearing and Action on the Zoning Amendment. The Board of Trustees shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board of Trustees shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the criteria listed below and approve, approve with conditions or deny the application, in whole or in part. No petition for rezoning shall be granted where, within one (1) year preceding the date of filing of such petition with the Town Clerk, a petition for the same changes of the zoning district on the property described in such petition has been denied.

(11) Step 11: Post Approval Actions.

a. Upon approval of an amendment to the official zoning map by the Board of Trustees, the Town Clerk shall cause an appropriate revision of the official zoning map to be prepared for recording with the County Clerk and Recorder. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.

b. Upon approval of an ordinance amending, changing or repealing part of the text of this Article, the Town Clerk shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Article.

c. The applicant initiating the official zoning map amendment shall have thirty (30) days after approval of the amendment by the Board of Trustees to submit to the Town Clerk two (2) Mylar copies and three (3) blueline copies of the approved zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. A licensed surveyor or engineer shall prepare the zoning amendment map. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one (1) eleven (11) inch by seventeen (17) inch Mylar reduction of the zoning amendment map and an AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM-formatted disk, or by other acceptable electronic transfer.

d. Within thirty (30) days of receipt of the zoning amendment map, the Town Clerk shall review the documents for compliance with the Board of Trustee's approval, obtain the Town officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the County Clerk and Recorder's Office for recordation.

(d) Criteria for Amendments to Official Zoning Map. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

(1) To correct a manifest error in an ordinance establishing the zoning for a specific property;

(2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;

(3) The land to be rezoned was zoned in error and as presently zoned in inconsistent with the policies and goals of the Comprehensive Plan;

(4) To further the implementation of the goals and objectives of the Comprehensive Plan.

(f) Map – Amendment upon Zoning Establishment or Modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map. (Ord. 480 §3.11, 2003; Ord. 522, 2005)

REVIEW CRITERIA

The implementation of the Milliken Envision Comprehensive Plan is dependent on the rules of the Town's Land Use Code. Linking the Land Use Code or Chapter 16 of the Town's Municipal Code ordinances to the goals of the Comprehensive Plan provides the Town with the municipal land-use controls and the structure necessary to withstand legal challenge. This connection ensures too that the goals identified in the Comprehensive Plan are linked to standards for implementing the Community's Vision as provided below:

"Milliken is peaceful, quiet, and safe. Citizens know, respect and care for each other and there is a general concern for the community as a whole. Through their collective efforts and strong leadership, Milliken residents have maintained and built upon the community's high quality of life."

Six review criteria exist under the Town's Municipal Code in the Chapter 16 "Land Use" Section

16-3-540(d) for amending the Official Zoning Map. The Commission and the Board of Trustees need to review this criteria before deciding whether or not to approve a requested change in zoning:

1. To correct a manifest error in an ordinance establishing the zoning for a specific property;
2. To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area in the Town itself;
3. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;
4. The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;
5. The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; **or**
6. A rezoning to a Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.

To correct a manifest error in an ordinance establishing the zoning for a specific property;

The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;

Both of these criterion are basically the same. Thus, to avoid redundancy they are being grouped together.

The Comprehensive Milliken Envision Framework Plan Map designates this area a Planned Unit Development for Business/Industrial uses next to Planned Unit Development for Residential uses. In addition, the Comprehensive Plan supports strong neighborhoods around strong centers, which may include common open spaces, civic and commercial or mixed uses with strong consideration given to pedestrian movement, the character of streets and sidewalks as inviting public spaces with interconnectedness providing a transition between the public and the private realm. Milliken's Envision Plan and Land Use Code encourage a variety of land uses that transition from high intensity non-residential uses to low-density neighborhoods. Every neighborhood has a center and an edge. The edges of neighborhoods should be formed by features shared with adjacent neighborhoods and uses, such as major streets, changes in street pattern, greenways or natural features such as streams and major drainage or riparian corridors. New streets, bikeways, sidewalks, paths and trails should connect to existing adjacent neighborhoods. All buildings should use human proportions in terms of their relationship to height, massing, and the human scale. Failure to incorporate these design principles into a project including the context within which a project is located may be cause for denying a project (Section 16-2-35).

Thus, while the zoning was probably not in error as a Planned Unit Development, the integration of low intensity residential uses with industrial uses is difficult to do well in a neighborhood. Thus, the rezoning request from business/industrial uses to residential uses in conjunction with the existing residential housing, elementary school, and recreational opportunities being provided by the Thompson River Parks and Recreational District (TRPR) is probably more compatible right next to each other.

Years ago the demand for zoning grew out of the pressure to separate residential uses from industrial uses, not only for nuisance-related reasons, but due to threats to public health, safety,

and public welfare. More recently, planners have begun creating a mixed use zoning ordinance that clearly defines the land regulation standards necessary for implementing the community vision. Mixed use zoning sets standards for the blending of residential, commercial, cultural, institutional, **and where appropriate, industrial uses**. The mixed use buildings that result can help strengthen or establish neighborhood character and encourage walking and bicycling rather than possibly detracting from it. Thus, even in this newer form of zoning where multiple uses are allowed, industrial uses often are still regulated. Normally, industrial uses and residential uses do not mix well.

To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area in the Town itself;

This area was originally zoned as a Planned Unit Development, but no subdivision plats were approved nor any industrial development for this area. Now that the economy is stronger, new housing units are selling. In 2011, one single-family residential building permit was issued. In 2012, twelve single-family residential building permits were issued. In 2013, thirty-six single-family residential building permits were issued. In 2014, ninety-one single-family residential building permits were issued. In 2015, the Town has issued twenty single-family residential building permits thus far.

The applicant is requesting to change the zoning from a Planned Unit Development – Business/Industrial to R-1 "Single-Family Residential". This is will benefit the existing neighborhood and better support the Envision Milliken Comprehensive Plan Vision. The Comprehensive Plan envisions neighborhoods as well-designed cohesive communities with pedestrian access and linages to parks, schools, public facilities, downtown commercial areas and the Milliken trail system. The elementary school and Sapington Park provide a focal point for Settler's Village. The development of residential housing in Fossil Park complements Settler's Village, rather than detracting from it with commercial development. The area has blossomed into a place for single adults and young families to grow and feel the safe, nurturing environment of Milliken's small town character.

In addition, Centennial Cooperative Park has developed into a recreational center with a swimming pool, a dog park, and other recreational amenities. Recently, the Thompson River Parks and Recreation District (TRPR) secured funding for the Milliken Field House. This provides a new opportunity for the residential neighborhood to enjoy another focal point or center of activity not only within this neighborhood, but allows new connections to be built between the downtown commercial center of Milliken and the other residential neighborhoods.

The area requested for rezoning has changed or is changing to such a degree that it is in the public's interest to encourage additional residential development, which is much more compatible than industrial development with the surrounding neighborhoods.

The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;

The development of residential housing in Settler's Village along with the development of the swimming pool, a dog park, and other recreational amenities at the Centennial Cooperative Park lends the area to additional development of residential housing rather than for the industrial uses originally planned. The area has blossomed into a place for single adults and young families to

grow and feel the safe, nurturing environment of Milliken's small town character. This character needs to be retained rather than endangered with industrial development nearby without any real neighborhood "edge". The code defines a neighborhood "edge" as those features that are shared with adjacent neighborhoods and uses, such as major streets, changes in street pattern greenways or natural features such as streams and major drainage or riparian corridors.

In addition, the Thompson River Parks and Recreation District (TRPR) secured funding recently for the Milliken Field House. This will provide a new opportunity for the nearby residential neighborhoods as well as provide a catalyst to provide connections between the downtown commercial center of Milliken, schools, older residential neighborhoods, and allow the Town of Milliken to come together and enjoy another focal point or center of activity that provides a sense of community.

The area requested for rezoning has changed or is changing to such a degree that it is in the public's interest to encourage development or redevelopment of the area from industrial to residential uses.

A rezoning to a Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.

Planned Unit Development is often used because traditional zoning and development codes tend to prohibit the densities and the mix of uses found in traditional neighborhood developments. As a remedy, localities without mixed use zoning may turn to a Planned Unit Development (PUD) designation to incorporate retail and commercial uses within select residential subdivisions. The problem with PUDs is that they can be hard to administer and may create unpredictability in what will actually be built with differing design standards.

The applicant is requesting to move away from the previously approved PUD zoning for industrial uses to R-1 "Single-Family Residential", which will not result in spot zoning, strip zoning, or contract zoning. Spot zoning applies when a single parcel is zoned to permit more uses than afforded to adjacent similarly situated property owners. Strip zoning occurs when a parcel along a street is rezoned for uses not compatible with other properties along the same street. And contract zoning occurs when a particular parcel is zoned for a particular project.

The applicant is asking for zoning which is compatible and consistent with the surrounding neighborhood. It will not create a danger to the public health, safety or public welfare, nor create any extraordinary public expense or nuisance. The overall density of the proposed zoning as R-1 "Single Family Residential" housing will be less than the current PUD allows. The current PUD allows for a maximum of 262 units for Lot 1 Block 5. The proposed plan using the R-1 zoning allows for approximately 70 units. It is anticipated that the traffic impacts will be less than the current Settlers Village PUD traffic studies show. All utilities will be coming from established main lines located in Prairie Drive and Stage Coach Drive. There is adequate existing utility infrastructure and water to handle the proposed single family housing.

FINDINGS OF FACT

1. Lot Holding Investments, LLC., the property owner, is requesting to amend the Town of Milliken's Official Zoning District Map for Fossil Park or Lot 2 Block 1 of Settlers Village Subdivision Plat 2nd Filing, from a PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District.

2. Fossil Park consists of approximately 50 acres and sits vacant.
3. Fossil Park has never been platted.
4. Now that the economy is stronger, a demand exists for single family residential houses in the Town of Milliken. In 2011, only one single-family residential building permit was issued. In 2012, twelve single-family residential building permits were issued. In 2013, thirty-six single-family residential building permits were issued. In 2014, ninety-one single-family residential building permits were issued. This year, in 2015, the Town has already issued twenty single-family residential building permits.
5. The proposed R-1 "Single Family Residential" zoning will be more compatible with the adjacent surrounding properties than the earlier industrial uses under the PUD with the other residential uses that currently exist.
6. The Planning and Zoning Commission reviewed the case in a public hearing on April 15, 2015 and recommended the Board's approval of the requested rezoning PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District for the 50 acres owned by District. Lot Holding Investments, LLC.

STAFF RECOMMENDATION

Staff recommends that the Town Board of Trustees approve the request to amend the Town of Milliken's Official Zoning District Map for Fossil Park or Lot 2 Block 1 of Settlers Village Subdivision Plat 2nd Filing, from a PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District.

TOWN BOARD APPROVAL

_____The Milliken Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact finds the application MEETS the provisions of Town's Municipal Code Chapter 16 Sections et. seq. of the Town of Milliken's Land Use Development Code (LUDC) and APPROVES the request to amend the Town of Milliken's Official Zoning District Map for Fossil Park or Lot 2 Block 1 of Settlers Village Subdivision Plat 2nd Filing, from a PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District in Milliken, Colorado, which consists of approximately 50 acres.

or:

_____The Milliken Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact finds the application DOES NOT MEET the provisions of Town's Municipal Code Chapter 16 Sections et. seq. of the Town of Milliken's Land Use Development Code (LUDC) and DENIES the request to amend the Town of Milliken's Official Zoning District Map for Fossil Park or Lot 2 Block 1 of Settlers Village Subdivision Plat 2nd Filing, from a PUD "Planned Unit Development" – Industrial Zoning District to R-1 "Residential Single Family" Zoning District in Milliken, Colorado, which consists of approximately 50 acres.

ORDINANCE NO. 707

AN ORDINANCE OF THE TOWN OF MILLIKEN REZONING TWO PARCELS OF LAND KNOWN AS LOT 2, BLOCK 1, OF SETTLERS VILLAGE SUBDIVISION 2ND FILING AND LOT 1, BLOCK 5 OF SETTLERS VILLAGE FINAL PLAT, TO R-1 RESIDENTIAL SINGLE FAMILY.

WHEREAS; the owners and applicants of the property located at Lot 2, Block 1 of Settlers Village Subdivision 2nd Filing and Lot 1, Block 5 of Settlers Village have made application to change the zoning of the property from PUD Planned Unit Development to R-1 Residential Single Family:

WHEREAS; the application has been reviewed and approved by the Planning Commission of the Town of Milliken and;

WHEREAS; the R-1 Residential Single Family zoning is consistent with the long range trend and the adjoining area, and the application for rezoning meets the applicable requirements of the Land Use Code for a change in zoning.

NOW, THERFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, WELD COUNTY COLORADO:

Section 1: Lot 2, Block 1 of Settlers Village Subdivision 2nd Filing and Lot 1, Block 5 of Settlers Village Final Plat, together with adjacent vacated rights of way, are hereby rezoned from PUD Planned Unit Development to R-1 Residential Single Family for the future development of the Fossil Park Subdivision.

Legal Description: Several parcels of land situate in the East Half of Section Twelve (12), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), Town of Milliken, County of Weld, State of Colorado, the multiple parcels of land being more particularly described as follows:

Lot 2 of Block 1 of Settlers Village Subdivision Second Filing, a plat recorded September 1, 2004 as Reception No. 3214671 of the records of Weld County;

Together with

Lot 1 of Block 5 of Settlers Village Final Plat, a plat recorded March 20, 2001 as Reception No. 2833840 of the records of Weld County;

And together with

A strip of land being all that portion of the vacated Prairie Drive right of way adjoining Lot 1 of Block 5 of said Settlers Village as was dedicated by the Final Plat For Settlers Village, a plat recorded March 20, 2001 as Reception No. 2833840 of the records of Weld County, and being westerly of a point of

curvature on said Prairie Drive, said inclusive strip of right of way generally being 50 feet wide by 585.30 feet in length and bounded on the easterly side by the East boundary line of said Settlers Village.

Said described parcels of land contain a total of 50.094 acres, more or less (±).

Section 2: This ordinance was introduced, read and passed at the regular meeting of the Milliken Board of Trustees on the _____ day of _____, 2015.

This ordinance will go into effect and be in force thirty days after publication.

TOWN OF MILLIKEN

By_____
Milt Tokunaga
Mayor of the Town of Milliken

ATTEST

_____
Cheryl Powell
Town Clerk

Date of Publication: _____