Planning & Zoning Commission
Tuesday, July 7, 2026, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631

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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

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Please Note: All participants must remain muted until they are requested to speak. This will reduce background noise disruptions for all meeting attendees. When it is your turn to speak, you will have three (3) minutes for public comment. For technical difficulties, please email gram.dick@townofeagle.org and we will do our best to assist you.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on this agenda can be submitted to the Planning Department at Planning@townofeagle.org and will be included as part of the record.

REGULAR MEETING CALLED TO ORDER

DECLARATION OF CONFLICTS OF INTEREST

APPROVAL OF MINUTES *Approval of minutes from the following meeting(s) of the Planning & Zoning Commission.*

1. June 16, 2026 P&Z Meeting Minutes

PUBLIC COMMENT

Citizens are invited to comment on any item not on the agenda subject to a public hearing. Please limit your comments to three (3) minutes per person. Those who are speaking are requested to state their name & address for the record.

ELECT NEW CHAIR, VICE CHAIR

PUBLIC HEARINGS

1.		
Project:	LUDC26-03, Chapter 4.17 and 4.20 Code Amendments
File #	LUDC26-03
Applicant:	Town of Eagle
Location	Town of Eagle
Staff Contact:	Jessica Johnsen, Community Development Director
Request:	For the Planning and Zoning Commission to review and recommend approval of staff proposed modifications to the Land Use and Development Code in reference to Section 4.17 and Section 4.20.

OPEN DISCUSSION

ADJOURN

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.

Gram Dick
Administrative Technician II

MEETING MINUTES
Planning & Zoning Commission
Tuesday, June 16, 2026, 6:00 PM
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PUBLIC WIFI – Eagle Guest

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This was an in-person meeting with the option for the public to attend via Teams.

6:00 PM - REGULAR MEETING CALLED TO ORDER

Commissioner Bill Nutkins called the meeting to order at 6:00 PM.

COMMISSIONERS PRESENT

Erin Cook, Benjamin Leape (Virtual), KaLynn Wood, Bill Nutkins, Colleen Sharpe, Jennifer Sturgeon, Keegan Winkeller

STAFF

Jessica Johnsen – Com Dev Director
Sydney Dynek – Planner I
Gram Dick – Admin Tech II
Tez Hawkins – Baseline Senior Planner

COMMISSIONERS ABSENT

Matt Hood (Resigned), Keith Montag

DECLARATION OF CONFLICTS OF INTEREST

Commissioner Nutkins disclosed that Commissioner Hood had recused himself from the Public Hearings as he is involved with the projects.

APPROVAL OF MINUTES

1. Minutes approved from May 19, 2026. Motion passed unanimously. All in favor.

PUBLIC COMMENT

Commissioner Nutkins opened the floor for public comment on items not on the agenda, but there were none.

PUBLIC HEARINGS

1. **Project:** Eagle Multi-Family LLC ROW Vacation
   File #: ROW24-01
   Applicant: Eagle Multi-Family LLC
   Location: 104, 110, 124, & 130 Capitol Street; 217 Second Street; 103, 123, and 137 Howard Street
   Staff Contact: Tez Hawkins, Baseline Senior Planner
   Request: Eagle Multi Family, LLC and JAH, LLC requests that the Town of Eagle vacate the public alley right-of-way between 104, 110, 124, & 130 Capitol Street, 217 Second Street, and 103, 123, & 137 Howard Street in exchange for a Town public pedestrian easement, temporary construction easement, and slope easement along Grand Avenue and across the north side of 104 Capitol Street. If the public alley right-of-way is vacated, the Town will establish a public utility easement within the alley until all existing utilities are adequately relocated.

Staff Presentation

Tez Hawkins, of Baseline Consultants, presented a request to the Town of Eagle Planning and Zoning Commission to vacate a public alley right-of-way located between properties on Capitol Street, 2nd Street, and Howard Street in downtown Eagle. The alley encompasses approximately 0.92 acres and is currently an unpaved corridor consisting of compacted road base and gravel. Tez clarified that while the staff report incorrectly identified water infrastructure within the alley, the only Town-maintained utility located there is a wastewater main. Additional utility infrastructure includes natural gas facilities operated by Black Hills Energy, electrical facilities operated by Holy Cross Energy, and telecommunications infrastructure maintained by Lumen Technologies. The request for vacation was presented as being permissible under both the Town's Land Use and Development Code and applicable Colorado statutes governing right-of-way vacations.

A significant component of the proposal involved the applicant's commitment to grant several easements to the Town in exchange for vacating the public right-of-way. Tez Hawkins explained that, although ownership of the alley would revert to the adjacent property owners with property lines extending to the centerline of the former alley, the applicant would provide a public easement allowing the Town to continue maintaining and operating the alley in essentially the same manner as it does today. In addition, the applicant proposed granting a pedestrian easement to facilitate construction and long-term maintenance of a sidewalk associated with the Grand Avenue Corridor Project. A temporary slope and construction easement would also be provided to support implementation of that public infrastructure project. Using an exhibit showing the overlay of the Grand Avenue Corridor Project, Tez described how the proposed easements would accommodate future sidewalk construction and other project-related improvements while preserving the Town's ability to access and maintain the area.

The presentation also summarized public input received regarding the application. Staff had received one written comment from a neighboring property owner who opposed the vacation request. The resident argued that vacating the alley could negatively affect the historic street grid established by the original 1876 town plat and potentially alter the traditional character of the downtown neighborhood. Additional concerns included the possible loss of circulation opportunities for future parking, loading, and service access, as well as impacts to snow removal operations and trash collection activities that currently utilize the alley corridor.

Tez Hawkins then reviewed staff's analysis of the request against both the applicability standards and review criteria contained within the Town's regulations. Regarding applicability, staff acknowledged that the alley continues to serve public purposes and therefore remains needed for access and utility functions. However, because the applicant would grant a public easement preserving those same functions, staff concluded that the vacation would not result in the loss of public access or utility service. Staff further found that the remaining statutory criteria were satisfied because the entire alley is located within the Town of Eagle and does not serve as a municipal boundary. Staff determined that the request could proceed for consideration despite the continued need for access and utility operations.

The presentation further explained how the application met the Town's decision-making criteria. Staff found the proposal consistent with the Comprehensive Plan because it supports circulation, transportation, and pedestrian connectivity goals associated with the Grand Avenue and Highway 6 corridor improvements. The request was also found to comply with the Land Use and Development Code because no future development or land use action resulting from the vacation would interfere with the construction, operation, or maintenance of public utilities. Tez Hawkins emphasized that the public easement would ensure uninterrupted access for utility maintenance, transportation functions, and other public services. Staff also concluded that no adjacent property owner would lose access to utilities, public services, or vehicular circulation because the easement structure would preserve those functions even after the underlying right-of-way is vacated.

<u>Questions for Staff</u>

After the staff presentation to Planning and Zoning Commission, the Commissioners had questions for staff and the applicant's representative. Commissioners focused primarily on the rationale for vacating a right-of-way that continues to function as an alley, the interpretation of the approval criteria, the status of utilities within the corridor, and the timing of the request. Commissioner Nutkins questioned staff's characterization of a review criterion concerning whether the right-of-way had ever been used for public purposes. Commissioner Nutkins noted that the alley clearly has been used for public access and utilities and therefore struggled to understand why staff had identified the criterion as "not applicable." Tez Hawkins acknowledged that the language of the criterion is somewhat confusing and explained that staff interpreted it to address situations where a right-of-way was established but never actually utilized for its intended public purpose. Because the alley has historically been used and because public functions would continue through the proposed easement, staff categorized the criterion as not directly applicable to the circumstances of this request.

Additional clarification was provided regarding the intent of the Code language. Jessica Johnsen, the Community Development Director, explained that the criterion is intended to determine whether a right-of-way currently serves an essential public function that would make vacation inappropriate. Jessica and Tez both acknowledged that the wording of the Code is ambiguous but stated that the practical interpretation centers on whether the Town itself currently relies on the corridor as a public facility. Staff explained that while adjacent property owners may use the alley for access, staff's position was that the Town is not actively using the right-of-way in a manner that would preclude its vacation. Commissioners continued to explore this distinction, noting that alleys were historically created specifically to provide access to adjoining properties. The discussion highlighted some uncertainty regarding the interpretation of the Code language and the difference between public ownership of a right-of-way and its use by private property owners.

The Commission also sought clarification regarding the utilities located within the alley and how those facilities would be affected by the vacation. Tez Hawkins explained that the existing utilities would remain in place for the foreseeable future and continue to operate under the proposed public easement. He noted that the utilities are anticipated to be relocated at some point in the future, at which time the public easement could potentially be terminated and the alley fully abandoned. Commissioners questioned whether the utilities currently serve nearby development and whether the alley would continue functioning in its present capacity until future redevelopment occurs. Tez confirmed that the alley would continue to serve its existing operational needs until all necessary services are abandoned or relocated. He further clarified that the determining factor for ultimately removing the easement would be whether any residents, utility customers, or utility providers still require access through the corridor. Only after utilities are relocated and no longer depend on the alley would the easement potentially be extinguished.

Commissioner Winkeller raised a question regarding utility coordination, specifically noting that a Comcast relocation agreement referenced in the application materials had expired several months earlier. Tez Hawkins responded that although an updated agreement had not yet been received, the applicant remained in active communication with Comcast. He stated that he had recently received confirmation from Comcast indicating that the company was prepared to proceed with utility relocation when the applicant was ready, despite the administrative closure of the existing relocation ticket. This response appeared intended to reassure the Commission that utility providers remained supportive of the proposed future relocation plans and that no significant obstacles had emerged.

The Commission's final line of questioning focused on the timing of the right-of-way vacation request. One commissioner asked why the application was being processed at the current time rather than concurrently with a future redevelopment proposal, particularly since the Commission had not yet reviewed a revised development plan for the site. Tez Hawkins noted that discussion of any future development proposal was outside the scope of the right-of-way vacation application and therefore could not be considered as part of the review. He explained that the request was instead driven by the Town's need to advance the Grand Avenue Corridor Project. According to Tez Hawkins, negotiations between the Town and the property owners began as the Corridor project's design advanced, leading to the current proposal. The right-of-way vacation and associated easements were therefore presented as a mechanism to facilitate public infrastructure improvements related to the Grand Avenue project rather than as a direct component of any future private development.

<u>Applicant Presentation</u>

Diana Cruso Jenkins, representing the applicant, began her presentation and explained that the application resulted from extensive discussions over the past year with town staff and the town attorney regarding the appropriate timing for the request. According to Diana, the application emerged from a "chicken-and-egg" situation in which the town's need for certain public improvements along Grant Avenue created an opportunity to advance the vacation request while simultaneously securing public benefits through easements. She emphasized that the proposal does not immediately relinquish any public rights or infrastructure access but instead creates future development flexibility while preserving existing public interests through a series of conditions and easement agreements.

Diana Jenkins described the physical characteristics of the site, noting that although the area is technically a public alley and right-of-way, it functions differently from a traditional alley due to a significant grade change and dead-end configuration. These physical limitations, do not provide the connectivity benefits typically associated with a traditional street grid. While acknowledging the town's continued interest in utility access within the corridor, she emphasized that the proposal preserves those utility functions through a temporary public utility easement. She contended that the vacation would be minimally disruptive while generating substantial public benefits, particularly through easements that would facilitate planned Grant Avenue improvements, enhance pedestrian connectivity, and support future redevelopment of a prominent infill site near downtown.

Addressing procedural requirements, Diana Jenkins discussed the standards governing right-of-way vacation requests. She offered her interpretation of the applicable code provisions, explaining that only one of the listed threshold conditions must be met to justify filing a vacation request. She agreed with staff's conclusion that the relevant condition in this case was the future abandonment and removal of the right-of-way. Although abandonment had not yet occurred, she argued that conditioned vacations of this type are common practice and that the necessary abandonment would occur in conjunction with any future redevelopment. Furthermore, she maintained that all filing and applicability standards had been satisfied.

Diana Jenkins further noted that, at staff's request, the applicant had secured and submitted utility relocation plan approvals and confirmations from affected service providers, including gas, electric, fiber optic, and cable internet companies. These materials were included in the staff packet and demonstrated that utility concerns had been addressed as part of the review process.

In discussing the review criteria, Diana Jenkins argued that the proposal is consistent with the town's comprehensive plan because it advances public-benefit goals through improved pedestrian infrastructure and support for Grant Avenue improvements. She reiterated that the existing alley does not function as an effective transportation connection because of its physical constraints. By contrast, the proposed pedestrian easement would provide meaningful public access and connectivity that better serves community goals. She also stated that the remaining review criteria were satisfied because the conditioned approval structure preserves utility access and infrastructure while ensuring that public needs continue to be met.

Diana Jenkins then reviewed the principal conditions of approval associated with the request. The first condition establishes a temporary public utility easement that would preserve the town's and utility providers' rights to access and maintain existing infrastructure. She explained that, following discussions with the town attorney, the easement could be created automatically under state law without the need for a separate easement agreement. The second condition involves a permanent pedestrian access easement along the northwest portion of the block. This easement would provide public pedestrian access in perpetuity and grant the town the rights necessary to construct and maintain sidewalks and related improvements associated with the Grant Avenue project. The third condition is a temporary slope easement, functioning as a construction easement that would allow grading and support work necessary for implementation of adjacent public improvements. Jenkins indicated that draft easement documents had been prepared and could be reviewed if desired.

Finally, Jenkins responded to issues raised in a public comment letter submitted earlier that day. While avoiding discussion of any future development proposal not currently before the commission, she addressed concerns regarding the loss of the traditional street-grid pattern by reiterating that the alley does not currently provide meaningful through-connectivity because of its dead-end configuration and grade changes. She also sought to alleviate concerns about the possibility of a single large building dominating the site, noting that the town had previously adopted development standards in the CMU-1 district, including building footprint and spacing requirements, specifically designed to prevent such outcomes. Regarding traffic concerns, she argued that a single access point could exist under current zoning and development regulations even without the vacation, meaning the proposal itself does not create that condition. Instead, she characterized the vacation as providing flexibility in the future placement of access points, with all traffic and safety issues to be evaluated during any subsequent development review process. She concluded by noting that concerns regarding snow storage and plowing had not been raised by staff but that the applicant remained willing to discuss those issues if necessary.

Questions For Applicant

Commissioners sought clarification on how the proposed vacation would affect property boundaries, easement rights, neighboring property owners, and public participation in the review process. Commissioner Nutkins first asked whether the proposed public utility easement that would replace the vacated right-of-way would be the same width as the existing right-of-way. Diana Jenkins confirmed that it would, indicating that the town and utility providers would retain access over the same physical area currently occupied by the public right-of-way.

The discussion then turned to property boundary changes and whether a formal replat would be required. Commissioner Nutkins noted that the vacation would effectively enlarge the adjoining private parcels and questioned how those changes would be legally recorded. Diana explained that a replat would not be necessary because the vacation ordinance itself would serve as the legal mechanism for adjusting the property lines. She stated that the applicant had coordinated with the Eagle County Assessor's Office, which confirmed that the adopted ordinance and accompanying easements would allow the property boundaries to be updated under state law. Diana further supported this explanation by citing a similar right-of-way vacation process that had previously been used in connection with the county building, demonstrating that the proposed approach had local precedent.

The commission then explored the relevance of the public comment and the identity of the commenter. Commissioner Nutkins specifically asked whether the individual who submitted the letter owned property within the block directly affected by the proposed vacation. The question appeared aimed at determining the degree to which the commenter might be directly impacted by the action. Diana Jenkins and Staff clarified that the commenter was not a property owner within the subject block bounded by Capitol, Howard, Second, and Grand, but instead owned property across the street at 108 Howard Street. Commissioner Nutkins indicated that this distinction was important because comments from directly affected adjacent property owners could carry particular significance when evaluating a right-of-way vacation request.

The discussion concluded with questions about ownership and consent among the properties directly involved in the application. Commissioners sought assurance that all affected property owners were aware of and supported the request. Diana Jenkins confirmed that while her client was not the sole property owner adjacent to the right-of-way, the other owner had authorized submission of the application and was fully informed about the proposal. This response appeared to satisfy concerns that the vacation was being pursued with the knowledge and cooperation of all parties whose property interests would be directly altered by the action.

Public Comment

No Public Comment.

Discussion

The discussion began with Commissioner Sturgeon questioning whether the permanent pedestrian easement being granted to the Town actually provided equivalent value to the right-of-way being vacated. Looking at the maps and exhibits, Commissioner Sturgeon observed that the easement appeared substantially smaller than the existing public right-of-way and questioned whether the Town was receiving less land than it was giving up. Staff member Tez Hawkins acknowledged that the acreage was not equal and explained that the exchange should be evaluated based on public benefit rather than a strict square-foot-for-square-foot comparison. Public Works Director, Tom Gosiorowski, expanded on this point and explained that the Town viewed the transaction through the lens of value rather than land area. He stated that the easement would allow the Town to widen the bike and pedestrian corridor along Grand Avenue without having to acquire additional property, producing significant public benefit at no acquisition cost. Tom further noted that Colorado law does not require a municipality to receive compensation or an equivalent land exchange when vacating a right-of-way, making the proposed arrangement advantageous to both the Town and the adjacent property owners.

Commissioners then sought clarification regarding the future pedestrian improvement. Commissioner Sturgeon asked whether the planned pathway would be at least as wide as the existing facility. Tom responded that the Grand Avenue improvements would result in a substantially wider path than what currently exists. He explained that the existing route functions more like a standard sidewalk, whereas the proposed facility would be built to modern standards and operate more like a dedicated shared-use bike and pedestrian path. This explanation reinforced staff's position that the public would receive a meaningful improvement in connectivity and functionality despite the reduction in publicly owned land area.

Commissioners largely agreed that the application appeared straightforward from a procedural standpoint and that the exchange seemed beneficial. However, multiple commissioners expressed unease about the timing of the request. Commissioner Winkeller stated that although the proposal met the applicable requirements and appeared reasonable, it felt unusual to approve a right-of-way vacation while simultaneously being instructed not to consider the development proposal that everyone knew was associated with it. Commissioner Winkeller noted that even the commission chair had recused himself due to the connection between the vacation request and the anticipated development, making it difficult to fully separate the two issues. Despite these concerns, Commissioner Winkeller ultimately indicated support for the application.

Other commissioners echoed similar sentiments. Newer members of the commission acknowledged that they were less familiar with the rumored development proposal but nevertheless concluded that the request before them appeared fair and supported the ordinance. Commissioner Sharpe admitted that their primary confusion stemmed from not understanding why a right-of-way needed to be vacated in order to create easements that would provide many of the same public functions already present. Once staff explained that the vacation was intended to create flexibility for future redevelopment while preserving public access through easements, Commissioner Sharpe indicated support as well.

Commissioner Nutkins offered a more extensive analysis of his concerns. While noting that right-of-way vacations were not unprecedented and had occurred elsewhere in town, Commissioner Nutkins questioned what would happen if the anticipated development never moved forward. He pointed out that the Town would have permanently vacated a public right-of-way, raising questions about whether the replacement easements would remain in place indefinitely or whether the right-of-way could somehow be restored. He emphasized that if a property owner had requested a vacation without any indication of future plans, he would likely have opposed the request. Commissioner Nutkins also cautioned against framing the proposal as a "trade" in which the Town receives benefits in exchange for granting a vacation. In his view, the commission's responsibility was to evaluate the merits of the application itself rather than engage in what he termed "horse trading."

In response, staff provided detailed procedural explanations. Staff explained that the commission was legally limited to considering the item on its agenda, the right-of-way vacation, and could not formally evaluate a future development proposal that had not yet been scheduled for review. Staff also noted that it is common practice for right-of-way dedications and vacations to occur before development approvals because many projects depend on resolving property and access issues first. Regarding the concern about a stalled project, Staff explained that if the conditions attached to the vacation were not satisfied, the approval could become invalid, requiring additional action by the Town to resolve the situation.

The discussion then turned to the distinction between temporary, conditional, and permanent easements. Commissioner Nutkins remained concerned that the language used in presentations and documents seemed inconsistent and could create uncertainty if development never occurred. Tez Hawkins clarified that the utility easement should not be viewed as temporary but rather as conditional. The easement would remain in place until all utilities were relocated and the corridor no longer served a public purpose. If redevelopment never happened, the easement would effectively continue indefinitely and preserve the Town's access rights. Several commissioners continued probing the issue, seeking assurance that the Town's rights would remain protected even if ownership changed or the property sat undeveloped for decades.

Commissioner Sharpe focused on how the easements would be documented and enforced. She questioned where the permanent pedestrian easement would be legally recorded if there were no replat and no separate easement agreement. Staff explained that the easement rights would be embedded directly into the ordinance itself and supported by legal descriptions and metes-and-bounds surveys. Commissioner Sharpe then explored a hypothetical scenario in which no development occurred. Staff confirmed that, under such circumstances, the adjoining property owners would retain the expanded parcels created by the vacation, while the easements would remain in place. Re-establishing a public right-of-way in the future would require a new dedication or subdivision process. Although Commissioner Sturgeon remained concerned that the arrangement could become administratively complicated if redevelopment never occurred, staff emphasized that substantial legal review had been conducted with the Town Attorney, the applicant's attorney, and the Eagle County Assessor's Office to ensure the process complied with state law.

A final point of discussion involved the value of the land being transferred. Commissioner Sturgeon questioned whether the acreage being granted to the property owners was equivalent in monetary value to the smaller easement areas being retained by the Town. Tom responded that the Town's analysis focused less on appraised land value and more on the practical public benefits being secured. He explained that the adjacent property owners were indeed gaining ownership of the vacated land permanently, regardless of whether development occurred. However, the Town was simultaneously receiving important benefits that would support the Grand Avenue project, including a pedestrian easement and a slope easement that would avoid the need for expensive retaining walls and potential land acquisition efforts. According to Tom, those benefits provided immediate and tangible value to the public.

The discussion concluded with commissioners acknowledging that the existing alley provided limited public utility because it did not function as a through connection within the street network. Most commissioners ultimately agreed that the easements and public improvements offered sufficient justification for the vacation. However, several members continued to express reservations about the timing of the request and the difficulty of separating it from the anticipated Capital Flats development. Staff acknowledged that application materials still contained references to Capital Flats because the vacation request and development proposal had initially been submitted together before being separated into different review processes. Commissioners viewed this as contributing to the awkwardness of evaluating the vacation independently, though it did not ultimately prevent most members from supporting the application.

Motion

Commissioner Winkeller motioned to approve file number: ROW 24-01, Resolution 10, series 2026 with the listed conditions of approval based on the testimony provided and the recommended findings of fact and conclusions of law as detailed in the staff report with the conditions 1 through 4. Commissioner Sharpe seconded, and the motion to approve passed with six votes for yes and one vote for no. Commissioner Sturgeon voted against file number: ROW24-01.

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1. **Project:** 301 Broadway - Minor Development Plan and Lot Consolidation
   File #: DR25-06
   Applicant: Michael Noda
   Location: 301 Broadway
   Staff Contact: Tez Hawkins, Senior Planner
   Request: A Minor Development Plan proposing a three-story building, inclusive of 4,681 square feet of ground-floor commercial/retail space and a total of nine residential units divided between the second and third stories. The Minor Development Plan also includes an above-ground parking garage, a retail/restaurant plaza, and a rooftop area. A lot line adjustment has been applied for as a companion application in conjunction with the development plan

Staff Presentation

Tez Hawkins presented a minor development permit application for property located at 301 Broadway, requesting approval for a three-story mixed-use building containing ground-floor commercial/retail space, nine residential units, and an associated parking garage, along with a companion lot line adjustment between the two parcels. The site is currently vacant and located within the Broadway zoning district. The proposal includes 4,681 square feet of retail space on the ground floor, upper-story residential units consisting entirely of two-bedroom layouts of varying sizes, rooftop residential amenities, and outdoor patio areas. As part of the project, the applicant also proposes to underground existing power and telecommunications lines located in the alley behind the site.

Tez noted that staff received two public comments during the review process. The first expressed concern that the original building height was excessive and would negatively impact surrounding properties; staff responded that the initial submittal did not fully comply with applicable code standards, and the applicant subsequently revised the design to reduce building height, after which the commenter did not provide further feedback. The second comment raised concerns about construction-related noise and vibration, referencing prior disturbance during demolition of a previous on-site use; staff acknowledged that construction impacts are typical but noted that town regulations limit construction hours to mitigate disruption.

In evaluating the application under the Land Use Development Code, staff found the development to be generally consistent with applicable standards, subject to conditions ensuring compliance with remaining requirements. These conditions primarily relate to final coordination of landscaping and utilities, as well as further evaluation of the feasibility of undergrounding utility lines in the alley. Staff also confirmed that the project is consistent with prior land use approvals and is not located within a planned unit development but remains compatible with existing plats and entitlements.

Regarding consistency with the Comprehensive Plan and any applicable corridor plans, staff determined that the project supports key community goals, including redevelopment of Broadway, activation of underutilized parcels, strengthening of ground-floor commercial activity, and promotion of infill development that enhances the character and vitality of the downtown area. The proposal was viewed as contributing positively to the town's vision for a more active, walkable, and economically vibrant corridor while maintaining small-town character.

Tez Hawkins also presented findings for the companion lot line adjustment application. Staff concluded that the adjustment meets all applicable criteria and will facilitate the proposed development. A development agreement is included to ensure required public improvements are completed, including re-striping parking along Second Street and upgrading an existing driveway area to proper sidewalk, curb, and gutter infrastructure. Staff noted that the current condition reflects prior non-pedestrian use, and the upgrades are necessary to bring the frontage into compliance and improve safety and accessibility. Staff determined that the lot line adjustment will not negatively affect neighborhood character and will not result in density exceeding zoning limits or prior approvals.

Questions for Staff

The Town of Eagle's Planning and Zoning Commission raised a question regarding the lot line adjustment plat and Tez Hawkins responded by clarifying that the lot line adjustment is processed as an administrative approval but is included as a companion application within the overall development plan set. He explained that while a separate plat may not have been included as a distinct document, the development plans themselves depict the existing and proposed lot line configuration, including the shift in boundary between the parcels.

As the discussion continued, commissioners referenced the graphic exhibit shown on screen and confirmed that it helped clarify the proposed adjustment, though some still expressed that it was not immediately apparent in the packet materials. The applicant team clarified that the adjustment involves two separate property owners, with the applicant intending to purchase the adjacent property, 321 Broadway, and that the parcels would remain compliant with zoning standards after the adjustment. Commissioners also asked whether the lot line change would be accompanied by a common access easement, and staff confirmed that an access easement would be established as part of the arrangement.

Additional questions focused on compliance implications, particularly whether the shifted lot line would cause existing structures to become nonconforming or whether setbacks would be met following the adjustment. Staff explained that a portion of an existing garage on the affected property is currently nonconforming and that, depending on approval of the lot line adjustment, the structure would be removed or replaced with a new garage constructed in compliance with the updated property boundaries. Commissioners sought clarification on whether the proposed garage was a renovation or a new structure, and staff indicated it appeared to be a reconstructed wood-frame garage, deferring final clarification to the applicant.

The Commission also briefly confirmed that the proposal would not trigger affordable housing requirements. Overall, the questions reflected procedural concerns about documentation clarity, the need for a clear visual representation of the proposed lot line adjustment, and confirmation that the resulting parcels and structures would remain compliant with zoning and setback requirements. Despite initial frustration over missing materials, the discussion moved toward reliance on the on-screen exhibit and staff clarification to resolve uncertainties before proceeding.

Applicant Presentation

Alex Chay, representing One Harvest Investment Group and the potential future developer of 301 Broadway, introduced the broader vision for the proposed Eagle's Nest on Broadway, Altair Residences, as a redevelopment intended to align with the Town of Eagle's long-term downtown revitalization goals. The proposal emphasizes activating the ground floor with high-quality retail and commercial space intended to attract businesses and enhance the pedestrian environment, while adding nine residential condominium units above, supported by covered parking, storage, and shared amenities.

Architect Michael Noda of Neo Studio then presented the design and technical aspects of the project, emphasizing that the design had been developed in close collaboration with Town planning staff over approximately two years to ensure compliance with the Land Use Code and alignment with community design expectations. He described the architectural approach as drawing inspiration from Colorado mountain town commercial vernaculars such as Telluride, Crested Butte, and Breckenridge, with an emphasis on breaking down building massing into smaller, articulated forms. The design uses material changes, step-backs, and façade modulation to avoid large uninterrupted building surfaces, with no façade exceeding 60 feet without a change in material or architectural expression. The lower levels are designed with masonry and stone to reflect a more traditional commercial base, while the upper level is stepped back with more contemporary materials, larger windows, and metal siding to reduce perceived mass and introduce visual variation.

A significant portion of the presentation focused on the shared courtyard and access arrangement between 301 Broadway and the adjacent property at 321 Broadway. Michael explained that the two properties would coordinate to create a 25-foot-wide shared plaza and access easement area, split evenly between the parcels, which would serve both as a pedestrian-oriented public space and as shared vehicular access to a parking garage. This configuration would allow the removal of an existing curb cut on Third Street, improve sidewalk continuity, and reduce vehicular conflicts, while also supporting a more pedestrian-friendly streetscape. He emphasized that this plaza area would remain open space and would not support any future building construction due to utility constraints and its intended public function. The plaza is envisioned as an active space with seating, landscaping, and pedestrian amenities, and is intended to directly connect to the Broadway sidewalk and enhance the retail frontage experience.

The applicant also explained the property transaction component of the proposal, stating that approximately 7.5 feet of land would be acquired from the neighboring property to help create the symmetrical 25-foot plaza configuration. This adjustment is intended to balance ownership between the two properties and support the coordinated design of the shared space. Michael Noda further noted that as part of this arrangement, the existing garage structure on 321 Broadway would be renovated or modified to accommodate shared access needs within the easement area, ensuring functional integration between the two developments.

Additional technical elements included site circulation, parking, and utilities. The project proposes approximately 18 on-grade parking spaces accessed from the shared rear circulation system, and coordination with utility providers, particularly Holy Cross Energy, to underground existing overhead power lines along the site frontage and adjacent blocks. The applicant indicated that most of the planned undergrounding aligns with utility master planning efforts and would significantly improve the visual character of the corridor.

Finally, Noda reviewed the residential program, which consists of nine total two-bedroom condominium units distributed across the upper floors, with five units on the second floor and four on the third floor. The building also includes a rooftop amenity terrace for residents, accessed by elevator and stair.

Questions For Applicant

The Planning and Zoning Commission's discussion with Michael Noda centered on several key areas. A major portion of the conversation focused on the rooftop deck design, specifically whether the proposed pergola or canopy structure was permitted. Commissioner Nutkins recalled prior code discussions suggesting that rooftop elements above the height limit should be strictly limited to mechanical equipment, stair and elevator enclosures, and not include additional architectural features such as pergolas or covered structures. This prompted clarification from staff and the applicant regarding current code language versus prior interpretations discussed during code amendments. Staff ultimately confirmed that under current code, only mechanical equipment is clearly allowed to extend above the height limit, while stair and elevator enclosures are permitted as well, but other architectural features like trellises or pergolas are not explicitly allowed unless otherwise interpreted or conditioned. The commission expressed concern about ensuring the proposal complied with the intended regulatory framework and suggested that a condition of approval may be necessary to resolve any ambiguity.

The discussion also revisited building height limits, with commissioners confirming that the base height limit for the district is 35 feet, with allowances up to 45 feet for certain exceptions such as mechanical equipment and vertical circulation elements. However, uncertainty remained about how strictly those exceptions applied to elevator and stair enclosures and whether additional rooftop architectural features could exceed permitted height. Michael Noda acknowledged the need for clarification and indicated willingness to comply with any required code interpretation or conditions imposed by staff or the commission.

Another topic of discussion involved the operability and design of ground-floor storefront openings facing Broadway and the shared plaza. Commissioner Nutkins questioned whether doors shown swinging outward in the plans would encroach into the public right-of-way, which would not be permissible. Michael explained that door swing direction and storefront configuration were still subject to refinement based on occupant load, tenant requirements, and final code compliance. He emphasized that the slab-on-grade design provides flexibility to adjust storefront recesses and entry conditions, allowing the design to accommodate code requirements such as vestibules while maintaining functional retail layouts. He also noted that corner conditions offer additional design flexibility and emphasized the importance of maintaining an active, pedestrian-oriented retail frontage.

Commissioners also discussed architectural massing and design quality, with Commissioner Sturgeon expressing appreciation for the stepped building form, façade articulation, and use of material changes to reduce perceived scale. The design was generally well received for its effort to preserve view corridors and maintain a sense of openness in the downtown context. Parking provisions were also briefly discussed, with commissioners noting the importance of providing adequate downtown parking to support both residents and surrounding businesses and expressing general support for the proposed on-site parking solution.

Staff and commissioners reiterated the importance of ensuring the project strictly complies with code requirements related to rooftop elements and building height, suggesting that additional clarification or conditions may be needed before final approval. Overall, while the commission expressed support for the project's design direction and downtown activation goals, their questions focused on resolving technical uncertainties around rooftop allowances, storefront functionality, and strict adherence to height and architectural standards.

Public Comment

Troy Fuller of 316 Wall Street asked if the parking is covered or not.

Discussion

Most commissioners expressed approval of the building's architectural design, noting that the stepped massing, façade articulation, and upper-floor setbacks helped reduce perceived bulk and create a more visually appealing structure consistent with downtown character. Several commissioners specifically praised the inclusion of the plaza concept, stating that, if successfully implemented, it would be a valuable downtown amenity that could enhance pedestrian activity and contribute positively to the Broadway corridor. Others highlighted the importance of adding housing and retail in the downtown core, describing the project as a welcome investment that supports broader goals of downtown revitalization, increased activity, and economic vitality.

Multiple commissioners also emphasized that the project successfully addresses practical downtown needs, particularly parking and mixed-use activation. The provision of on-site parking was repeatedly noted as a strength, with commissioners acknowledging that many downtown developments rely on limited or off-site parking, whereas this proposal integrates parking into the design. The inclusion of ground-floor retail and upper-story residential units was also viewed positively, with commissioners stating that the combination helps support both daytime and evening activity downtown and contributes to a more complete and functional urban environment.

At the same time, some commissioners reiterated concerns that had been raised earlier in the hearing regarding housing diversity and affordability, noting that while the project adds residential units, it does not significantly expand the range of housing types or affordability levels in the community. Although this was not framed as a reason for opposition, it was mentioned as a broader policy consideration related to long-term housing diversity goals.

The commission also briefly returned to a technical code issue regarding rooftop architectural elements and whether certain features, particularly the pergola or covered rooftop elements, were permitted under the town's height and architectural feature regulations. Commissioner Nutkins referenced prior discussions suggesting that rooftop allowances should be limited to mechanical equipment, stair and elevator enclosures, and potentially other strictly defined exceptions, expressing concern that some proposed elements might exceed those allowances. Commissioner Winkeller confirmed their understanding that the code permits architectural features such as domes, spires, and flagpoles, but acknowledged that prior commission discussions had focused on limiting covered rooftop gathering structures. Despite this brief uncertainty, the discussion did not shift the overall tone of support, with commissioners indicating that any remaining code interpretation issues could likely be resolved through clarification or conditions.

Commissioners reiterated their appreciation for the applicant's efforts to incorporate parking, stepped massing, and code-responsive design. The project was repeatedly described as a strong visual and functional fit for downtown Eagle, with multiple commissioners stating that it would be a positive addition to the town's core and help replace a long-standing iconic site with a new development that better reflects current community needs. Commissioner Sturgeon noted the importance of maintaining community memory associated with the prior use of the site, while still recognizing the need for redevelopment and modernization.

Motion

Commissioner Winkeller move to approve the file number: DR25-06 and LLA26-01 resolution 11, series 2026 with the list of conditions of approval as well as the conditions added by the Planning and Zoning Commission to review architectural height exceptions and based on the testimony provided and the recommended findings of fact and conclusion of law as detailed in the staff report. Commissioner Sturgeon seconded, and the motion to approve passed unanimously.

COMMUNITY DEVELOPMENT UPDATE

Commissioner Nutkins asked Tom Gosiorowski, the Public Works Director, if the Planning and Zoning Commission was going to receive a presentation relating to the Grand Avenue Project. Tom responded to Commissioner Nutkins and let him know that a presentation will be giving to Planning and Zoning Commission soon.

ADJOURN

Commissioner Winkeller motioned to adjourn. Commissioner Nutkins seconded, and the motion to adjourn passed unanimously. All in favor.

Meeting Adjourned at 7:50 PM

AI Assistance
These meeting minutes were generated with the assistance of AI technology to enhance accuracy, organization, and clarity. The final version was reviewed and approved by Gram Dick to ensure completeness and adherence to meeting records.

<u>EXHIBIT A</u>

Section 4.17.080(F)(3)(a)

. *Application*.

i. An application for a variance shall be made on a form provided by the Town and signed by the applicant which clearly states the reasons for the request and how it complies with the conditions for variance.

ii. An applicant may request a variance concurrently with an associated development permit application by submitting a request for variance as part of the overall application package.

iii. *Public notice and public hearing requirements*. The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to Section 4.17.050.

<u>iv. The provisions of Section 4.17.060(C)(5) entitled "*Referral and call-up procedures"* shall not apply to any application or hearing under this Section 4.17.080(F).</u>

Current Code

Chapter 4.17 – Administration and Procedures

Section 4.17.100 - Development review process: specific applications
Subsection F. Variance

Item #3 – Review Procedure (b); Review criteria and decision

iv. The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district;
v. The strict application of the LUDC standards for which a variance is sought would produce undue hardship;
vi. The applicant's actions did not create the hardship;
vii. The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought;
viii. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden;
ix. The variance request will not violate building or fire code requirements; and
x. The variance is the minimum variance that will afford relief of the subject standards of the LUDC.

Proposed Change

Chapter 4.17 – Administration and Procedures

Section 4.17.100 - Development review process: specific applications
Subsection F. Variance

Item #3 – Review Procedure (b); Review criteria and decision

b. *Review criteria and decision*. To approve a variance, the Planning and Zoning Commission must find that all of the following Tier 1 criteria apply and at least two of the Tier 2 criteria apply.

xii. Tier 1: Mandatory Thresholds (all criteria must be met)
   a. The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district;
   b. The strict application of the LUDC standards for which a variance is sought would produce undue hardship;
   c. The applicant's actions did not create the hardship;
   d. The variance request will not violate building or fire code requirements
xiii. Tier 2: Discretionary Findings (at least two must be met)

a. The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought;
b. The variance is the minimum variance that will afford relief of the subject standards of the LUDC.
c. The variance will not alter the essential character of the neighborhood or substantially impair the use/value of adjacent properties.
d. The variance prevents substantial disruption to a natural feature, steep slope, or historic resource on the site.

Current Code

Chapter 4.17 – Administration and Procedures

Section 4.17.00 - Development review process: specific applications
Subsection F. Variance

Item #4 – Post-decision actions

a. Modification or amendment. Variance approvals cannot be modified or amended. An applicant who would like to change an approved variance shall file a new variance application.
b. Extension and lapsing of approvals.
    i. The property owner shall commence development or obtain the required permits to carry out the approved variance within three years of the variance approval or the approval shall be deemed lapsed.
    ii. The Planning and Zoning Commission may grant additional extension of up to three years to any variance approval.
c. Non-transferable. An approved variance shall apply only to the property or structure described in the approval and shall not be transferable to any other property or structure.

Proposed Code

Chapter 4.17 – Administration and Procedures

Section 4.17.00 - Development review process: specific applications

Subsection F. Variance

Item #4 – Post-decision actions (Add subsection d. Appeals)

d. Appeals.

i. *Aggrieved Party*. Any decision to approve, conditionally approve, or deny a variance application may be appealed to the Town Council by an aggrieved party. An "aggrieved party" is defined as the applicant, the property owner, or any adjacent property owner within the applicable distance [e.g., 300 feet] of the subject property who participated in the original hearing process.

ii. *Request.* An appeal shall be initiated by providing a written request with the Community Development Department within fourteen (14) calendar days of the date the final variance decision was issued.

    i. The request shall explicitly state the specific grounds for the appeal, citing the specific code criteria that were allegedly misapplied.

iii. *Review.* The Town Council's review shall be limited to the record established by the original decision-making body. The Council shall not accept new evidence, testimony, or revised plans that were not presented during the original hearing. The Council shall review the decision to determine if the original body;

    i. Exceeded its jurisdiction or authority;

    ii. Denied the appellant a fair hearing; or

    iii. Abused its discretion by making a decision unsupported by the evidence in the record or by misinterpreting the variance criteria.

iv. *Town Council Action*. Following the public hearing, the Town Council may take one of the following actions by majority vote.

    i. Affirm: Uphold the original decision.

    ii. Reverse/Modify: Overturn or amend the original decision, provided the Council adopts specific findings of fact demonstrating how the original body erred.

v.

Current Code

Does not define "undue hardship"

Proposed Code

Chapter 4.20 – Definitions and Measurements

Section 4.20.020. - General definitions and measurement descriptions

Undue Hardship. A restriction on a specific parcel of land resulting from unique physical characteristics inherent to the property itself—such as exceptional narrowness, shallow depth, irregular shape, exceptional topography, or other extraordinary conditions—which uniquely prevents the property owner from securing a reasonable use or development of the property that other neighboring properties in the same zoning district otherwise enjoy by right.

TOWN OF EAGLE, COLORADO
PLANNING AND ZONING COMMISSION
RESOLUTION NO. ##
(Series of 2026)

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO RECOMMENDING MISCELLANEOUS AMENDMENTS TO TITLE 4, SPECIFICALLY CHAPTERS 17 AND 20 OF THE EAGLE MUNICIPAL CODE RELATED TO DEVELOPMENT STANDARDS AND PROCESSES

WHEREAS, pursuant to C.R.S. § 31-15-103, municipalities shall have power to make and publish ordinances which are necessary and proper to provide for the safety, to preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof not inconsistent with the laws of this state; and

WHEREAS, the Town of Eagle (the "Town") is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Eagle Home Rule Charter (the "Charter"); and

WHEREAS, pursuant to Section 1.01.080 of the Eagle Town Code (the "Code"), the Town may amend the Code and pursuant to Section 4.17.120 of the Code, the Town may amend the Land Use and Development Code (the "LUDC"); and

WHEREAS, the Planning and Zoning Commission wishes to recommend amendments to portions of Title 4 of the Code as it relates to variances to better clarify the legal standard for variances to promote uniformity of treatment among similarly situated properties, introduce an administrative process for minor deviations, and align the Code with state statutory requirements; and

WHEREAS, the Planning and Zoning Commission finds and determines that the proposed amendments to the Code outlined herein are reasonably necessary to promote the legitimate public purposes of the public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Recommended Amendment. The Planning and Zoning Commission recommends that Section 4.17.010 entitled "*Overview of procedural requirements.*", Table 4.17-1 in particular be amended as follows, with additions in double underline and deletions in ~~strikethrough~~:

Sec. 4.17.010. – Overview of procedural requirements

Table 4.17-1: Application Review Requirements								
Application Type	**LUDC Section**	**Pre-Sub. Conf.**	**N'hd Mtg.**	**Notice**	**Admin (Staff)**	**PZC / BOA**	**Town Council**	**Form of Final Decision**
Key: ✓ = Required R = Review and Recommend D = Decision A = Appeal RA = Ratify NoD = Notice of Decision Res. = Resolution Ord. = Ordinance								
Approval Processes								
Variance	4.17.080.F	✓	✓	✓	R	D	A	Res.

Section 2. Recommended Amendment. The Planning and Zoning Commission recommends that Section 4.17.080(F)(3)(a) entitled *"Application"* be amended as follows, with additions in double underline and deletions in ~~strikethrough~~:

a. *Application*.

i. An application for a variance shall be made on a form provided by the Town and signed by the applicant which clearly states the reasons for the request and how it complies with the conditions for variance.

ii. An applicant may request a variance concurrently with an associated development permit application by submitting a request for variance as part of the overall application package.

iii. *Public notice and public hearing requirements*. The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to Section 4.17.050.

iv. The provisions of Section 4.17.060(C)(5) entitled *"Referral and call-up procedures"* shall not apply to any application or hearing under this Section 4.17.080(F).

Section 3. Recommended Amendment. The Planning and Zoning Commission recommends that Section 4.17.080(F)(3)(b) entitled *"Review criteria and decision"* be amended as follows, with additions in double underline and deletions in ~~strikethrough~~:

b. *Review criteria and decision*. To approve a variance, the Planning and Zoning Commission must find that all of the following Tier 1 criteria apply and at least two of the Tier 2 criteria apply.

i. Tier 1 mandatory thresholds (all criteria must be met):

(a) ~~i.~~ The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district;

(b) ~~ii.~~ The strict application of the LUDC standards for which a variance is sought would produce undue hardship;

(c) ~~iii.~~ The applicant's actions did not create the hardship; and

(d) The variance request will not violate building or fire code requirements.

ii. Tier 2 discretionary findings (at least two must be met):

(a) The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought;

~~iv. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden;~~

~~v. The variance request will not violate building or fire code requirements; and~~

(b) ~~vii.~~ The variance is the minimum variance that will afford relief of the subject standards of the LUDC;

(c) The variance will not alter the essential character of the neighborhood or substantially impair the use/value of adjacent properties; and/or

(d) The variance prevents substantial disruption to a natural feature, steep slope, or historic resource on the site.

Section 4. Recommended Amendment. The Planning and Zoning Commission recommends that Section 4.20.020(U), of the Eagle Municipal Code, entitled "*U Terms.*", be amended by adding a definition for "Undue Hardship" in double underline as follows:

Undue Hardship. A restriction on a specific parcel of land resulting from unique physical characteristics inherent to the property itself—such as exceptional narrowness, shallow depth, irregular shape, exceptional topography, or other extraordinary physical conditions—which uniquely prevents the property owner from securing a reasonable use or development of the property that other neighboring properties in the same zoning district otherwise enjoy by right.

Section 4. Recommended Amendment. The Planning and Zoning Commission recommends that Section 4.17.080(F)(4), of the Eagle Municipal Code, entitled "*Post-decision actions.*", be amended as follows, with additions in double underline and deletion in ~~strikethrough~~:

a. Modification or amendment. Variance approvals cannot be modified or amended. An applicant who would like to change an approved variance shall file a new variance application.

b. Extension and lapsing of approvals.

   i. The property owner shall commence development or obtain the required permits to carry out the approved variance within three years of the variance approval or the approval shall be deemed lapsed.

   ii. The Planning and Zoning Commission may grant additional extension of up to three years to any variance approval.

c. Non-transferable. An approved variance shall apply only to the property or structure described in the approval and shall not be transferable to any other property or structure.

d. Appeals.

   i. *Aggrieved Party*. Any decision to approve, conditionally approve, or deny a variance application may be appealed to the Town Council by an aggrieved party. An "aggrieved party" is defined as the applicant, the property owner, or any adjacent property owner within the applicable distance [e.g., 300 feet] of the subject property who participated in the original hearing process.

   ii. *Request.* An appeal shall be initiated by providing a written request with the Community Development Department within fourteen (14) calendar days of the date the final variance decision was issued.

      i. The request shall explicitly state the specific grounds for the appeal, citing the specific code criteria that were allegedly misapplied.

   iii. *Review.* The Town Council's review shall be limited to the record established by the original decision-making body. The Council shall not accept new evidence, testimony, or revised plans that were not presented during the original hearing. The Council shall review the decision to determine if the original body;

i. Exceeded its jurisdiction or authority;

ii. Denied the appellant a fair hearing; or

iii. Abused its discretion by making a decision unsupported by the evidence in the record or by misinterpreting the variance criteria.

iv. *Town Council Action*. Following the public hearing, the Town Council may take one of the following actions by majority vote.

i. Affirm: Uphold the original decision.

ii. Reverse/Modify: Overturn or amend the original decision, provided the Council adopts specific findings of fact demonstrating how the original body erred.

INTRODUCED, READ, PASSED AND ADOPTED ON JULY 7, 2026.

TOWN OF EAGLE, COLORADO

____

, Planning Commissioner Chair

ATTEST:

____

Gram Dick, Administrative Technician

To: Planning and Zoning Commission

From: Community Development

Date: July 7, 2026

Agenda Item: Amendments to Land Use and Development Code - Title 4

REQUEST

For the Planning and Zoning Commission to review and recommend approval of staff proposed modifications to the Land Use and Development Code in reference to Section 4.17 and Section 4.20.

BACKGROUND

Town Council has placed a priority on amending the Land Use and Development Code. Specifically, Section 4.17.080. - Development review process: specific applications; Subsection F (Variances).

Community Development is proposing text amendments to modernize the Town's variance criteria. The current Code relies on overly broad language that makes it difficult for both staff and the Commission to objectively evaluate "undue hardship." The proposed amendments clarify the legal standards for a variance, introduce a minor administrative variance process for minor deviations, and align Town Code with state statutory requirements. A variance is intended to be a safety valve for properties suffering from a unique hardship (e.g., steep topography, odd lot shape) that prevents compliance with strict zoning standards (like setbacks or height limits).

Following explicit policy direction from the Town Council, staff has drafted comprehensive text amendments to the Land Use Code regarding variances. This ordinance restructures the variance framework by:

- Eliminating financial hardship.
- Creating a dual-tiered "Mandatory vs. Discretionary" review matrix.
- Adjusting the "call-up" mechanism with a transparent, formal appeals process.

ANALYSIS

The Town's existing variance process has historically led to inconsistent decisions and unnecessary legal vulnerability. Town Council directed staff to modernize the code to protect the integrity of the zoning standards while providing structured, predictable flexibility for unique properties.

Council Directive	Current Code Standard	Proposed Code Amendment	Regulatory Intent
1. Eliminate Financial Hardship	Allowed applicants to claim high construction costs or loss of potential profit as a "hardship"	Explicitly bars financial, economic, or personal circumstances from being considered a legal hardship.	Aligns Town code with standard zoning law; hardships must be inherent to the physical land, not the owner's wallet
2. Mandatory vs. Discretionary Criteria	A vague mix of standards where failure on one point could be ignored if the Commission felt favorable	Splits review into Mandatory Thresholds (must meet all 3) and Discretionary Findings (must meet 2 of 4).	Ensures baseline legal compliance while giving the Commission structured flexibility to weigh local impacts.
3. Formal Appeals Process	Council could "call up" any P&Z variance decision arbitrarily for re-hearing.	Eliminates "call-ups." Establishes a strict 14-day formal appeal window to Council based on the administrative record.	Provides due process, cuts down on political unpredictability, and creates a clean legal record.
4. Consistent Definitions	"Undue Hardship" not clearly defined	Establishes a clear definition that is less ambiguous and up for interpretation.	Eliminates semantic confusion for staff, applicants, and the courts.

Proposed Review Criteria Matrix:
To fulfill the directive for clear, consistent standards, staff has structured the new review criteria into a two-tiered system. The Commission must find evidence of compliance with both tiers to grant an approval.

Tier 1: Mandatory Thresholds (All Three Must Be Met)

1. Physical Uniqueness: The hardship results strictly from the exceptional shape, size, topography, or extraordinary physical conditions of the specific property.

2. No Self-Created Hardship: The condition causing the hardship was not created by any past or present action of the applicant or property owner.

3. No Financial Justification: The alleged hardship is not based on a desire to increase financial

return, reduce construction costs, or accommodate personal preferences.

Tier 2: Discretionary Findings (At least Two Must Be Met)

1. Neighborhood Harmony: The variance will not alter the essential character of the neighborhood or substantially impair the use/value of adjacent properties.

2. Minimum Relief: The variance requested is the absolute minimum deviation necessary to allow reasonable use of the property.

3. Environmental Protection: The variance prevents substantial disruption to a natural feature, steep slope, or historic resource on the site.

See Exhibit A for specific code changes.

<u>Transition from "Call-Up" to Formal Appeal</u>
Under the old code, a vocal minority could lobby Council to "call up" a variance decision weeks after P&Z approval, creating extreme uncertainty for developers and homeowners. Adding an appeals process to variance applications allows this action to be initiated by the applicant, property owner or any adjacent property owner.

The Appeal: Appeals must be filed within 14 calendar days of the P&Z decision. Town Council will review the case strictly on the record (meaning no new evidence can be introduced) to ensure P&Z did not abuse its discretion.

See Exhibit A for specific code changes.

<u>Adding the Definition of "Undue Hardship"</u>
Our current code does not provide the definition of "Undue Hardship". We are proposing to add the definition.

Chapter 4.20 – Definitions and Measurements
Section 4.20.020. - General definitions and measurement descriptions
Undue Hardship. A restriction on a specific parcel of land resulting from unique physical characteristics inherent to the property itself—such as exceptional narrowness, shallow depth, irregular shape, exceptional topography, or other extraordinary conditions—which uniquely prevents the property owner from securing a reasonable use or development of the property enjoyed by right by neighboring properties in the same zoning district.

<u>FINDING OF FACT AND RECOMMENDATION</u>
After reviewing the proposed amendments, the following finding of fact has been made:
In accordance with Town of Eagle Land Use and Development Code, the proposed text amendment to Title 4 is consistent with the Comprehensive Plan.

Therefore, staff recommends approval.

SUGGESTED MOTION

On the request to amend the land use code regarding variances, and appeals, finding that the amendments meet the intent of the Comprehensive Plan and fulfill Council policy direction, I move that the Planning and Zoning Commission forward a recommendation of approval to Town Council, based on the finding of fact provided in the staff report.

PUBLIC COMMENT/OUTREACH

Public hearings were noticed in accordance with Title 4 requirements.

ATTACHMENTS

- PZ Resolution 12 (Draft), Series 2026
- Staff Report
- Exhibit A