

- I. CALL TO ORDER
- II. ROLL CALL
- III. REVIEW AGENDA
- IV. NEW BUSINESS
  - a. Review and possible recommendation to the Board of Trustees regarding an application made by Anne Pizel for the replat of a property located at 103 N. Main Street in the City of Creede, CO with a legal description of "Lot 15-R, Block 25, Creedmoor";
  - b. Review and possible recommendation to the Board of Trustees regarding a proposed ordinance to allow outdoor seating for food service establishment located within business district of the City of Creede;
- V. ADJOURN

**CITY OF CREEDE  
LAND USE APPLICATION**

Project Name: Replat of Lot 15-R, Blk 25, Creedmoor  
Date Submitted: 11-20-19 Application Fee: \$500.00

**TYPE OF APPLICATION (Check all applicable)**

Variance Request	<input type="checkbox"/>	Conditional Use	<input type="checkbox"/>	Special Exception Use	<input type="checkbox"/>
Zoning Change	<input type="checkbox"/>	Replat/Boundary Adj.	<input checked="" type="checkbox"/>	Property Plat	<input type="checkbox"/>
Subdivision Pre-Plat	<input type="checkbox"/>	Subdivision Final Plat	<input type="checkbox"/>	Road/Street Vacation	<input type="checkbox"/>
Annexation	<input type="checkbox"/>	Other	<input type="checkbox"/>		

Variance action involves allowing a deviation from a development standard in unique situations generally related to lot, size or shape.  
Conditional Use involves allowing a listed Conditional use of a particular zoning.  
Special Exception Use involves allowing a deviation from the permitted uses of a particular zoning.

**PROJECT INFORMATION**

Property Owner(s) Name Anne Pizel  
Property Owner(s) Name Dale Pizel  
Address 103 N. Main Street, / PO Box 250  
City & Zip Code Creede 81130 Phone 719-849-3298  
Contact Name: Anne Pizel Phone   
Project Location: 103 N. Main St. Creede CO 81130  
Existing Use Business Proposed Use Business  
Existing Zoning B1 Proposed Zoning B1

**Legal Description of Property (lots and block(s))**

Lot 15-R, Block 25, Creedmoor

Provide a copy of your property deed and a survey, drawn to scale, of the affected area, showing boundaries & existing zoning in all adjacent areas.

**Reason for Application:**

We are requesting to replat our lots so that  
the corner shop can be sold separately  
from our real estate office.

## LAND USE & PUBLIC FACILITIES

Land use designations (residential, Business, Industrial etc.) Business  
Public facilities (Yes/No) Yes Street Intersections wall and main

## UTILITY & SPECIAL DISTRICTS

Water & Sewer City of Creede Drainage: City of Creede  
Road & Bridge City of Creede Fire Protection Mineral County

## OTHER ISSUES (Yes or No)

Property in Floodplain? yes State Highway Access? NO  
Other: \_\_\_\_\_

## CERTIFICATION

I certify that I am the lawful owner or representative of all the parcel(s) of land, which this application concerns, and consent to this action:

Owner/Representative: Dale P. [Signature] Date: 11-20-18  
Owner/Representative: \_\_\_\_\_ Date: \_\_\_\_\_  
Owner/Representative: \_\_\_\_\_ Date: \_\_\_\_\_

The Applicant agrees to reimburse the City for any and all expenses incurred by the City during the planning and review process for their request including, but not limited to engineering, attorney, surveying, consultant and out-of-pocket expenses. Invoices for these expenses are due and payable to the City as follows: all documents are due net in fifteen (15) days from the date of the invoice. Interest on any overdue amounts will be assessed at two (2%) percent per month (24% APR). Failure to pay by the Applicant will also result in an immediate suspension of the approval process by the City, including the cancellation of any scheduled hearing and the withholding of building permits. In the event the City is forced to pursue collection of any amounts due and unpaid under this provision, it shall be entitled to collect attorney's fees incurred in said collection efforts in addition to the amounts due and unpaid.

I certify that the information and exhibits submitted are true and correct to the best of my knowledge. In filing this application I am acting with the knowledge and consent of the property owners. I understand that all materials and fees required by the Town of Creede must be submitted prior to having this application processed.

Applicant: Dale P. [Signature] Date: 11-20-18  
Applicant: \_\_\_\_\_ Date: \_\_\_\_\_  
Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

STAFF USE ONLY

APPLICATION ACCEPTED:

Date: \_\_\_\_\_ By: \_\_\_\_\_ Fee: \_\_\_\_\_



Reception No. \_\_\_\_\_  
Recorded at \_\_\_\_\_ o'clock \_\_\_\_\_

63529  
1 of 1

3/30/2007 2:14 PM  
WD R\$6.00 D\$0.00

Eryn K Follman  
Mineral County Clerk

## WARRANTY DEED

**THIS DEED**, Made this 8th day of March, 2007, between Dale E. Pizel and Anne Marie Pizel of the County of Mineral and State of Colorado, grantor(s), and Dale E. Pizel and Anne Marie Pizel whose legal address is P.O. Box 250 Creede, Co 81130, of the County of Mineral and State of Colorado, grantee(s):

WITNESS, that the grantor(s), for and in consideration of the sum of TEN AND 00/100 DOLLARS, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee(s), their heirs and assigns forever, not in tenancy in common but in joint tenancy, all the real property together with improvements, if any, situate, lying and being in the County of MINERAL and State of Colorado, described as follows:

**Lots 14 and 15, in Block 25, Creedmoor City of Creede, Mineral County, Colorado.**

also known by street and number as: **103 North Main Street, Creede, Co 81130**  
assessor's schedule or parcel number:

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances unto the grantee(s), heirs and assigns forever. And the grantor(s), for themselves, their heirs, and personal representatives, does covenant, grant, bargain and agree to and with the grantee(s), their heirs and assigns, that at the time of the sealing and delivery of these presents they are well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except easements, restrictions, reservations and rights of way of record, if any, and subject to the general taxes for the current and subsequent years.

The grantor(s) shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee(s), their heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

IN WITNESS WHEREOF, The grantor(s) has executed this deed on the date set forth above.

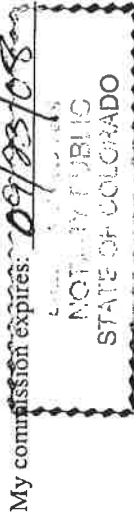
Dale E Pizel  
Dale E. Pizel

Anne Marie Pizel  
Anne Marie Pizel

STATE OF COLORADO,  
County of Mineral

ss.

The foregoing instrument was acknowledged before me this 9th day of March, 2007 by Dale E. Pizel and Anne Marie Pizel.



Witness my hand and official seal.

Dale E. Pizel

•If in Denver, insert "City and".

My Commission Expires 09/23/2008

Notary Public

Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)

PRELIMINARY

REPLAT OF LOT 15-R, BLOCK 25, CREEDMOOR

As shown on the "REPLAT OF LOT 14 AND LOT 15, BLOCK 25, CREEDMOOR",  
Filed under Reception No. 68257 in the records of the Mineral County Clerk & Recorder,  
City of Creede,  
In the Townsite of Amethyst,  
Located in the S4SE4 Section 25,  
Township 42 North, Range 1 West (suspended),  
New Mexico Principal Meridian,  
Mineral County,  
Colorado.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT Dale E. Pizel and Anne Marie Pizel are the owners of Lot 14 and Lot 15, Block 25, Creedmoor, as described under Reception No. 63529 AND that certain parcel of land, as described under Reception No. 68251, more particularly described as follows:  
Commencing at the NE corner of said Lot 14, Block 25, Creedmoor, whence the SE corner of said Section 25 bears S83°37'31"E a distance of 1172.03 feet; thence S89°14'51"W, along the North line of said Lot 14, Block 25, a distance of 29.34 feet to the NW corner thereof, identical to the place of beginning and being the NE corner of the parcel herein described; thence S66°47'00"E, along the Easterly limit of the said former Denver and Rio Grande Western Railroad R.O.W., a distance of 50.26 feet to the SW corner of said Lot 15, Block 25, identical to the SE corner of the parcel herein described; thence S89°14'51"W, along the Westerly projection of the South line of said Lot 15, Block 25, a distance of 26.76 feet to the SW corner of the parcel herein described; thence Northwesterly and approximately 0.17 feet Easterly of the said existing concrete gutter pan, N06°51'14"W a distance of 50.27 feet to the NW corner of the parcel herein described; thence N88°14'51"E, along the Westerly projection of the North line of said Lot 14, Block 25, a distance of 26.83 feet to the place of beginning.  
ALL TOGETHER known as Lot 15R, REPLAT OF LOT 14 AND LOT 15, BLOCK 25, CREEDMOOR, as shown on the plot recorded at Reception No. 68257 in the records of the Mineral County Clerk and Recorder, all located within the Limits of the City of Creede, Mineral County, Colorado, containing 2708 square feet, more or less, and  
SUBJECT TO any existing easements and/or rights of way of whatsoever nature.

THAT they have caused said real said real property to be re-platted and designated as the "REPLAT OF LOT 15R, BLOCK 25, CREEDMOOR".

OWNERS

Dale E. Pizel and Anne Marie Pizel

IN WITNESS WHERE OF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D.

Dale E. Pizel Anne Marie Pizel

ACKNOWLEDGEMENT

State of Colorado)  
County of Mineral)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D. by  
Dale E. Pizel and by Anne Marie Pizel.

Notary Public

My commission expires: \_\_\_\_\_

BOARD OF TRUSTEES CERTIFICATE

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D., Board of Trustees for the City of Creede,  
Mineral County, Colorado.

Mayor - City of Creede

Attest: City Clerk

SURVEYOR'S CERTIFICATE

I, Wm. D. Kitterman, a duly registered land surveyor in the State of Colorado do hereby certify that this plat  
was prepared from the data of an actual field survey performed by me and is true and correct to the  
best of my knowledge and belief.

CLERK AND RECORDER'S CERTIFICATE

State of Colorado) ss  
County of Mineral)

I hereby certify that this instrument was filed in my office at \_\_\_\_\_ O'Clock \_\_\_\_\_ M., the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_ A.D., and is recorded under Reception No. \_\_\_\_\_ and is filed in

Map Book \_\_\_\_\_ Map No. \_\_\_\_\_

Signatures and Recorder Deputy BY: \_\_\_\_\_

Rincon Associates, Inc.  
1125 New York Avenue, Suite 200, Denver, CO 80202 (303) 733-1111

REPLAT OF LOT 15-R, BLOCK 25, CREEDMOOR

As shown on the "REPLAT OF LOT 14 AND LOT 15, BLOCK 25, CREEDMOOR",  
Filed under Reception No. 68257 in the records of the Mineral County Clerk & Recorder,  
City of Creede,  
In the Townsite of Amethyst,  
Located in the S4SE4 Section 25,  
Township 42 North, Range 1 West (suspended),  
New Mexico Principal Meridian,  
Mineral County,  
Colorado.

Drawn by: WDK April 2002  
Job No. 3402 Sheet 1 of 1

MAIN STREET



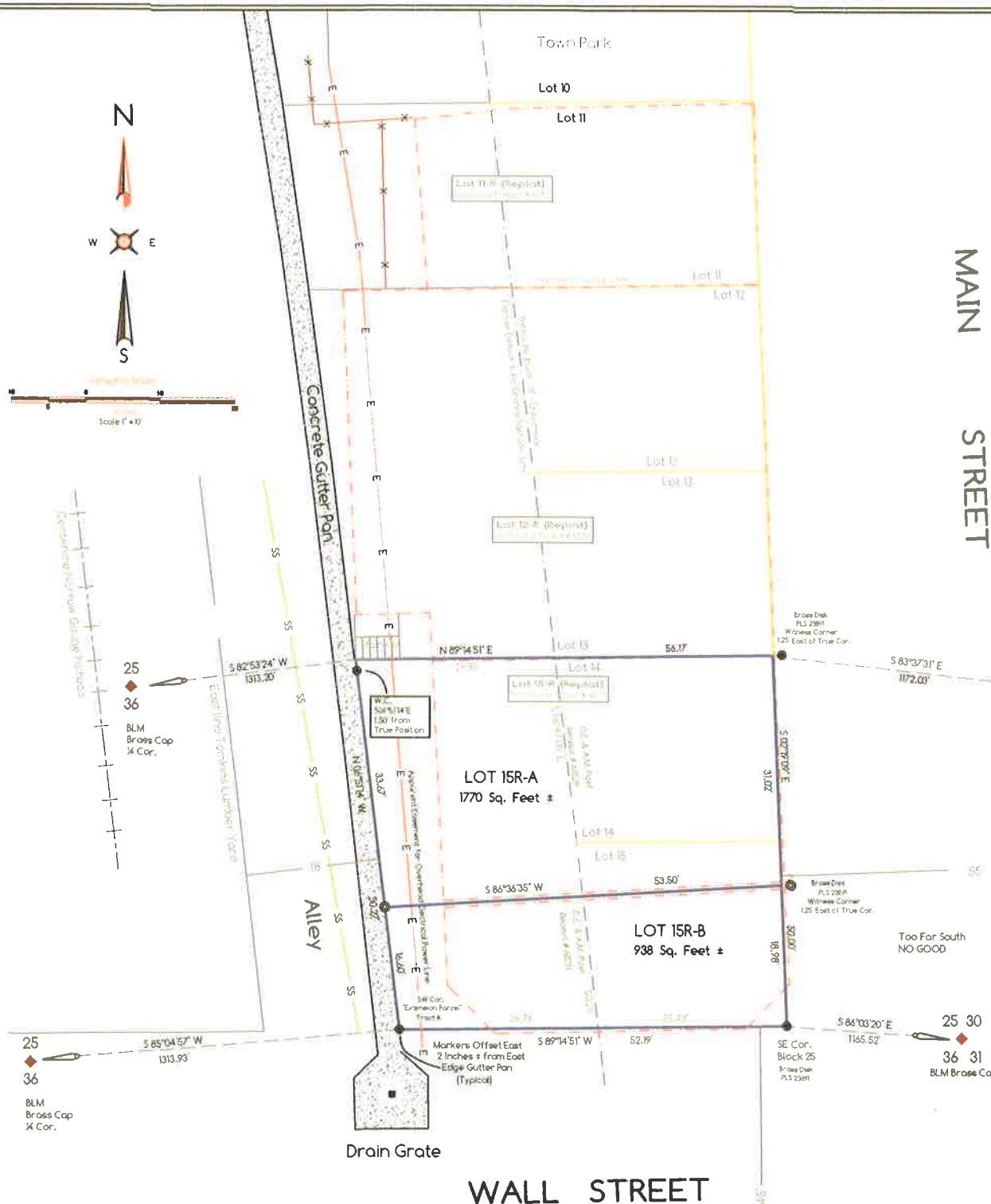
LOCATION MAP

Lot 15R-A

A parcel of land being fractions of Lot 14 and Lot 15, Block 25, Creedmoor as described, at Reception No. 63529, and a fraction of that certain parcel of land described at Reception No. 68251, all located in the S1/2SE1/4 Section 25, T.42N., R.1W., N.M.P.M., City of Creede, Mineral County, Colorado, which parcel of land contains 1776 sq. ft., more or less, being more particularly described by metes and bounds as follows:  
Beginning at the NE corner of the parcel herein described identical to the NE corner of said Lot 14, Block 25, Creedmoor, whence the SE corner of said Section 25, a BLM brass cap, bears S83°37'31"E a distance of 1172.03 feet; thence S02°19'09"E, along the East line of said Block 25, a distance of 31.02 feet to the SE corner of the parcel herein described; thence S86°36'35"W, along the middle of an interior wall and its westerly projection, a distance of 53.50 feet to the SW corner of the parcel herein described; thence Northwesterly and approximately 0.17 feet Easterly of an existing concrete gutter pan, N06°51'14"W, a distance of 33.67 feet to the NW corner of the parcel herein described; thence N88°14'51"E, along the North line of said Lot 14, a distance of 56.17 feet to the place of beginning, and  
SUBJECT TO any existing easements and/or rights of way of whatsoever nature.

Lot 15R-B

A parcel of land being a fractions Lot 15, Block 25, Creedmoor as described, at Reception No. 63529, and a fraction of that certain parcel of land described at Reception No. 68251, all located in the S1/2SE1/4 Section 25, T.42N., R.1W., N.M.P.M., City of Creede, Mineral County, Colorado, which parcel of land contains 938 sq. ft., more or less, being more particularly described by metes and bounds as follows:  
Beginning at the SE corner of the parcel herein described identical to the SE corner of said Lot 15, Block 25, Creedmoor, whence the SE corner of said Section 25, a BLM brass cap, bears S86°03'20"E a distance of 1165.52 feet; thence S89°14'51"W, along the South line of said Lot 15, a distance of 52.19 feet to the SE corner of the parcel herein described; thence Northwesterly and approximately 0.17 feet Easterly of an existing concrete gutter pan, N06°51'14"W, a distance of 16.60 feet to the NW corner of the parcel herein described; thence N86°36'35"E, along the middle of an interior wall and its westerly projection, a distance of 53.50 feet to the NE corner of the parcel herein described; thence S02°19'09"E, along the East line of said Block 25, a distance of 18.98 feet to the place of beginning, and  
SUBJECT TO any existing easements and/or rights of way of whatsoever nature.



LEGEND

- Property Boundary (dedicated)
- Set Pin & Cap OR Brass Disk, PLS 23891
- BLM Brass Cap
- Sanitary Sewer (Projected from Recept. # 63573)
- The Line
- Building Line (approx. - indicate)
- Lot Line
- Found Monument (as described)
- Easterly Limit Former Railroad R.O.W.
- Overhead Electrical Power Line
- Fence Line

Bearing Basis

Courses are based on a bearing of S89°14'51"W between the SE corner and the SW corner for Section 25, both set by the U.S. D.O.I. B.L.M. with brass capped pipes, determined by GPS observations and tied to this survey by traverse.

NOTE: According to Colorado law you must commence any legal action based upon any defect in this survey within 111 years after you discover such defect. In no event may any action based upon any defect in this survey be commenced more than 111 years from the date of publication of this map.

**9-03-070 Subdivisions.** The purpose of the subdivision review procedures is to ensure compliance with all the standards and requirements in this Development Code, and encourage quality development consistent with the goals, policies, and objectives in the Creede Comprehensive Plan.

(a) **Applicability.** The procedures of this section shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including land used for condominiums, apartments, or any other multiple dwelling units or creation of an estate in airspace, except any subdivisions that are specifically excluded by state law. If a tract of land that has been created or subdivided in the past is later described as a single tract in deeds or plat by the legal or equitable owners, any later subdivisions of that tract, even if along the lines of the earlier subdivision, shall be subject to the requirements of these regulations. If any tract of land has been subdivided as one type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision to a timesharing subdivision), the conversion shall be subject to the requirements of this Development Code. Unless the method of disposition is adopted for the purpose of evading the requirements of the Development Code, this procedure shall not apply to any division of land that:

- (1) Is created by a lien, mortgage, deed of trust, or any other security instrument;
- (2) Is created by any interest in an investment entity;
- (3) Creates cemetery lots;
- (4) Creates an interest or interests in oil, gas, minerals, or water that are severed from the surface ownership of real property;
- (5) Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common of such interest. For the purpose of this paragraph, any interest in common owned in joint tenancy shall be considered a single interest;
- (6) Creates a leasehold interest with a term of less than twenty (20) years and involves no change in use or degree of use of the leasehold estate;

(b) **Subdivision Categories.** Categories of subdivisions are established and defined as follows for the purpose of determining the appropriate subdivision review procedure:

1. **Major Subdivision.** Major subdivisions include all subdivisions which would create four (4) or more separate parcels of land or which would require or which propose public improvements.
2. **Minor Subdivisions.** Minor subdivisions include all subdivisions which would create less than four (4) separate parcels of land, subdivisions which do not require or propose public improvements, subdivisions which consolidate two (2) or more lots into a single lot in a previously recorded subdivision plat, and subdivisions which move any lot lines by more than two (2) feet; but shall not include subdivisions which are administrative subdivisions. Condominium and timeshare subdivisions more than four (4) units which do not propose public improvements shall be processed as minor subdivisions.



3. **Administrative Subdivisions.** Administrative subdivisions are subdivisions which include dividing a parcel of land for a duplex, subdivisions for the purpose of correcting survey errors, condominium and timeshare subdivisions up to four (4) units, and subdivisions which adjust lot lines by two (2) feet or less and which do not change the number of lots. The City Manager shall have the authority to determine that an administrative subdivision application shall be processed as a minor subdivision where the character of the subdivision application, or multiple applications, presents issues which warrant review and approval by the Board of Trustees. All administrative subdivisions are exempt from notice requirements outlined in §9-03-020(d).
- (c) **Review Procedures.** Applications for a subdivision shall follow the general review procedures set forth in §9-03-020, *General Procedures and Requirements*. Applications for subdivision must be initiated by the owner of real property. The City Manager may combine preliminary plan and final plat review where the subdivision application can be reviewed efficiently and effectively with a combined process. Where subdivision approval will be required to implement development in a proposed PUD, the applicant shall file a single preliminary plan incorporating the application requirements of both the PUD and subdivision preliminary plans. The provisions and procedures for public notice, hearing, and review for a PUD as prescribed in the Development Code shall apply to the application.
- (d) **Review Authority.** The review authority for a subdivision application shall be determined by the subdivision category.
1. **Major Subdivision.** Major subdivisions shall be required to obtain approval for preliminary plan and for final plat. The PZC shall review a preliminary plan for a major subdivision application and shall provide a recommendation to the Board of Trustees after conducting a public hearing. The Board of Trustees shall render the final decision on a preliminary plan for a major subdivision application after conducting a public hearing. The Board of Trustees shall review the final plat for major subdivision applications and render a final decision after conducting a public hearing. The preliminary plan and final plat for major subdivisions shall be approved by resolution of the Board of Trustees.
  2. **Minor Subdivision.** Minor subdivisions shall require final plat review and approval only where no public improvements are proposed; however, the review criteria for a preliminary plan shall apply to review of minor subdivision final plats in addition to the review criteria for a final plat. The Board of Trustees shall render the final decision on a minor subdivision application after conducting a public hearing. Minor subdivisions shall be approved by resolution of the Board of Trustees.
  3. **Administrative Subdivisions.** Administrative subdivisions shall require final plat review and approval only; however, the review criteria for a preliminary plan shall apply to review of administrative subdivisions in addition to the review criteria for a final plat. The City Manager shall review and render decisions on administrative subdivisions. A decision of the City Manager may be appealed to the Board of Adjustment pursuant to §9-03-130, *Appeal*.

(e) **Preliminary Plan Review Criteria.** The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for preliminary plat subdivision applications:

1. The proposed subdivision shall comply with all applicable use, density and development standards set forth in this Development Code that have not otherwise been modified or waived pursuant to this Article and that would affect or influence the layout of lots, blocks, and streets. Applicants shall not create lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible;
2. The subdivision application shall comply with the purposes of the Development Code;
3. The subdivision application shall be consistent with the Creede Comprehensive Plan and other community planning documents;
4. The land shall be physically suitable for the proposed development or subdivision;
5. The proposed subdivision shall be compatible with surrounding land uses;
6. Conveyance of Water Rights: In order to provide a continuing source of municipal water for the City of Creede, all Subdivisions may be required to transfer water rights or provide a fee in lieu thereof;
7. There are adequate public facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads and will be conveniently located in relation to schools, police, fire protection and emergency medical services;
8. The proposed utility and road extensions are consistent with the utility's service plan and are consistent with the City of Creede Comprehensive Plan;
9. The utility lines are sized to serve the ultimate population of the service area to avoid future land disruption to upgrade under-sized lines;
10. The subdivision is compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area;
11. A proposed subdivision for an existing PUD shall be consistent with the relevant PUD Master Plan as reflected in the approval of that PUD;
12. Appropriate utilities, including water, sewer, electric, gas and telephone utilities, shall provide a "conditional capacity to serve" letter for the propose subdivision;
13. That the general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision shall be designed in a way that minimizes the amount of land disturbance, minimize inefficiencies in the development of services, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes of this Development Code;
14. Evidence that provision has been made for a public sewage disposal system or, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with state and local laws and regulations;



15. Evidence that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the applicant and that the proposed use of these areas are compatible with such conditions or that adequate mitigation is proposed;
  16. The subdivision application addresses the responsibility for maintaining all roads, open spaces, and other public and common facilities in the subdivision and that City can afford any proposed responsibilities to be assumed by the City;
  17. If applicable, the declarations and owners' association are established in accordance with the law and are structured to provide adequate assurance that any site design standards required by this Development Code or conditions of approval for the proposed subdivision will be maintained or performed in a manner which is enforceable by the City; and,
  18. As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing.
- (f) **Final Plat Review Criteria.** After approval of a preliminary plan, the applicant may submit an application for a final plat. The following criteria shall apply to review of a final plat subdivision application:
- (1) The City Manager and/or Land Use Administrator shall compare the legal description of the subject property with the County records to determine that:
    - (i) The property described contains all contiguous single ownership and does not create a new or remaining unrecognized parcel;
    - (ii) The lots and parcels have descriptions that both close and contain the area indicated; and
    - (iii) The plat is correct in accordance with surveying and platting standards of the state.
  - (2) The final plat conforms to the approved preliminary plan and incorporates all recommended changes, modifications, and conditions attached to the approval of the preliminary plan;
  - (3) The final plat conforms to all preliminary plan criteria;
  - (4) The development will substantially comply with all sections of the Development Code;
  - (5) The final plat complies with all applicable technical standards adopted by the City; and,
  - (6) Appropriate utilities shall provide an ability to serve letter including, but not limited to, water, sewer, electric, gas, and telecommunication facilities.
- (g) **Public Improvements Guarantee.** Guarantees for public improvements shall comply with the following:
- (1) No Final Plat shall be approved or recorded until the applicant has submitted, and the PZC and the Board of Trustees have approved, a Subdivision Improvements Agreement (SIA) guaranteeing the construction of improvements shown in the Final

Plat documents, which have not previously been completed and approved by the City. Such Agreement shall set forth a method and a time schedule for construction of said improvements. The SIA shall run with and be a burden upon the land described in the agreement.

- (2) The SIA shall contain a security arrangement approved by the City, which reasonably guarantees that the required improvements shall be completed. The guarantee may take the form of a performance bond or an irrevocable letter of credit. Such security arrangement shall provide that the City may cause the improvements to be completed if not completed pursuant to the timetable specified in the SIA. The cost of completion then will be paid pursuant to the security arrangement. The amount of security posted shall not limit the liability of the applicant to pay for the full cost of completion of the improvements.
- (3) The security shall not be released until the City has inspected the improvements and accepted them as completed in accordance with the SIA and the warranty period has expired. The agreement shall require letters or receipts from all utility companies stating the required installations have been completed and paid for before the security is released.
- (4) The applicant shall be responsible to correct and repair any defect in any improvements due to materials or workmanship which appears for a period of two (2) years from the date of approval of completion.

(h) **Revocation.** An approval of a final plat is revoked pursuant to this section.

- (1) **Recording.** The City shall cause the final plat and restrictive covenants, if any, to be recorded within ninety (90) days from the date of approval and acceptance of the Board of Trustees.
- (2) **Vacation.** The final plat approval shall include a determination of a reasonable time by which the project should be completed. All plats given final approval shall contain a notation indicating the date by which a project is expected to be completed, that shall be prima facie evidence of a reasonable time by which the project should have been completed. A plat or any portion thereof that has been finally approved by the Board of Trustees and has been recorded shall be subject to vacation proceedings if the project that is the subject of the subdivision is not completed within the time set by the Board of Trustees.
- (3) **Extension.** Extensions of the time limit for project completion may be obtained from the Board of Trustees for good cause shown, upon request by the applicant or owner of the tract, if made before vacation proceedings are instituted.

#### **9-03-080 Special Review Use.**

- (a) **Purpose.** This section provides a discretionary approval process for special review uses, that have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed use(s) will not have a significant adverse impact on surrounding uses or on the community-at-large.

## Chapter 15: SEASONAL OUTDOOR SEATING FOR DOWNTOWN RESTAURANTS, CAFES AND TAVERNS

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Sec. 15-01 - Purpose.

Sec. 15-02 - Definitions.

Sec. 15-03 - Permit procedures.

Sec. 15-04 - Standards.

Sec. 15-05 - Operating restrictions.

Sec. 15-06 - Denial, revocation and suspension—Causes enumerated.

Sec. 15-07 - Same—Hearing demand; review; council powers.

Sec. 15-08 - Revocation or suspension; notice required; service.

Sec. 15-09 - Renewal considered as original application.

Sec. 15-10 - Transferral.

Sec. 15-11 - Violations.

Sec. 15-12 - Severability.

### **Sec. 15-01. Purpose.**

These seasonal outdoor seating regulations are designed to allow outdoor seating associated with cafes, restaurants and taverns on public property in locations where they are determined to be appropriate by the City Manager, and to promote and protect the public health, safety, and general welfare of the community. These general goals include, among others, the following specific purposes:

1. To attract residents and visitors to downtown Creede;
2. To provide additional space for cafes, restaurants and taverns to expand their operations;
3. To promote planned and orderly outdoor seating in public spaces as a means of encouraging pedestrian activity and enhancing the pedestrian experience in the downtown;

### **Sec.15-02. - Definitions.**

*Associated Establishment or Associated Business* means the business or establishment with which and outdoor seating area is associated as specified in the outdoor seating permit.

*Outdoor Seating Permit* means a permit issued by the City Manager for an establishment to provide outdoor seating, in the form of either a parklet or a sidewalk café, which conforms to the procedures and regulations of this article.

*Parklet* means an outdoor area operated by an existing restaurant or other food establishment which sells food or beverages for immediate consumption, located in an adjacent parking space within City of Creede right-of-way, that provides seating for patrons of said establishment, and contains readily removable tables, chairs, railings, planters or other temporary amenities as approved by the City Manager pursuant to the provisions of the Chapter.

*Sidewalk Cafe* means an outdoor dining area operated by an existing restaurant or other food establishment which sells food or beverages for immediate consumption, located on a public sidewalk, which contains readily removable tables, chairs, railings, planters or other temporary amenities as approved by the City Manager pursuant to the provisions of the Chapter.

### **Sec.15-03. - Permit procedures.**

1. The City Manager is hereby authorized to issue permits to operate a sidewalk cafe or parklet, collectively referred to hereafter as outdoor seating, on City-owned property provided that the applicant has complied with the standards set forth in this Chapter.
2. All applications for outdoor seating shall be reviewed and approved by the City Manager. The City Manager reserves the right to forward an outdoor seating permit application to the Board of Trustees for its review and consideration.
3. All permits shall be issued on a calendar year basis and shall expire on December 31<sup>st</sup> of the calendar year in which the permit was issued. Unless another time frame is specified in the permit, or by the requirements of this Chapter, the permit shall allow the operation of an outdoor seating from June 1<sup>st</sup> up to and including October 31<sup>st</sup> of the calendar year for which the permit is issued.
4. Any person or establishment granted a permit by the City Manager to operate an outdoor seating area shall pay to the City Clerk a fee in the amount established by resolution of the Board of Trustees. The City Manager shall not issue a permit unless the fees required by this section are paid.
5. Each permit application for outdoor seating shall be accompanied by an insurance policy or certificate of insurance, in an amount that shall be \$1,000,000.00 combined single limit for bodily injury and property damage, each occurrence, and \$2,000,000.00 annual aggregate, naming the city as an additional insured party. An insurance company authorized to do business in the State of Colorado shall issue such insurance.
6. The insurance certificate required by this Chapter shall be in effect for any period during which the outdoor seating is in operation. Failure to provide a current insurance certificate shall be cause for denial, suspension, or revocation of an outdoor seating permit. No establishment shall operate a sidewalk cafe or provide outdoor seating without filing proof of proper insurance. Denied, suspended, or revoked permits may be re-instated upon submittal of proof of proper insurance.
7. An outdoor seating permit application must be submitted to the City Manager for review and approval. No outdoor service of food and/or beverages shall be established on public

property, except in conformance with an application reviewed and approved by the City Manager pursuant to the requirements of this Chapter. An outdoor seating permit application must include, but is not limited to including, the following information:

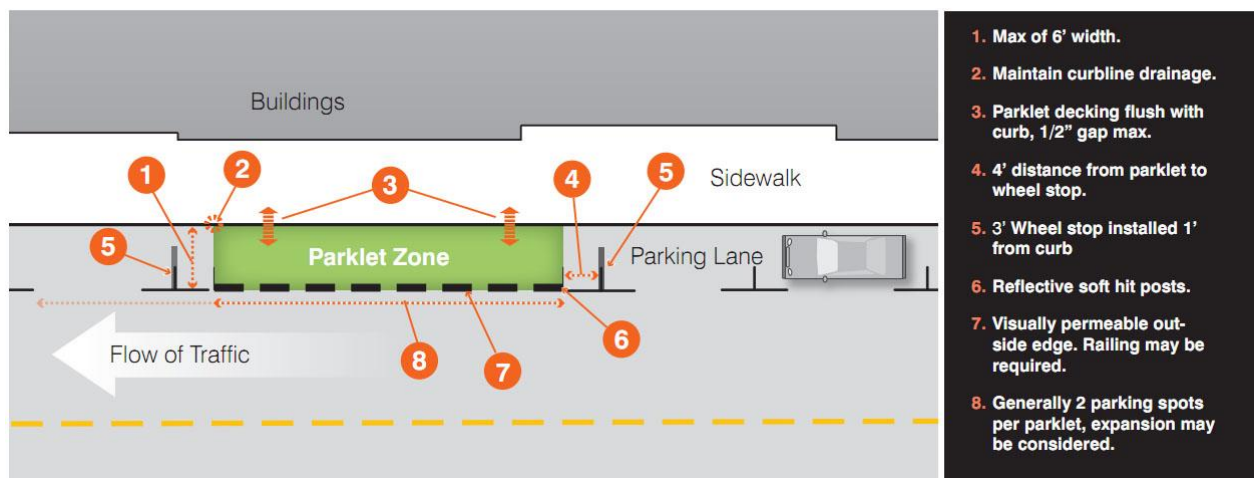
- a. Name of Applicant;
  - b. Name of Associated Business;
  - c. Address of Associated Business;
  - d. Contact Information of Applicant, Property Owner and Associated Business to include:
    - i. Telephone Numbers;
    - ii. Email Addresses;
    - iii. Physical Addresses;
  - e. Proposed hours of operation within the public right-of-way;
  - f. Copy of certificate of insurance pursuant to the provisions of this Chapter;
  - g. Written authorization from the owner of the property where the applicant is not the owner of the associated property;
  - h. An 11"x17" site plan that shall include, at a minimum, the following information:
    - i. The boundaries of the associated property in its entirety along with adjacent properties;
    - ii. Streets and sidewalks for a distance of at least 25 feet from the boundaries of the associated property at a scale showing detail sufficient for proper review.
    - iii. The location of all temporary structures such as, but not limited to, planters, landscaping, railings, tables, chairs and umbrellas;
    - iv. All points of ingress and egress;
    - v. For proposed parklets, the design of all curb extensions and platforms to accommodate the special design needs of the disabled in accordance with current ADA standards;
8. The City Manager shall distribute copies of all application materials to the Public Works Director and other applicable City staff members and/or consultants for review and comments;
9. Based upon review comments from City staff, the City Manager may approve, approve with conditions, refer the application back to the applicant for modification, deny the application or refer the application to the Board of Trustees. If approved, the City Manager shall issue the outdoor seating permit. If the City Manager denies the application, the reason for this determination shall be stated in a letter to the applicant issued not more than ten (10) business days after the final determination has been made. The applicant may appeal the decision of the City Manager in accordance with Section 15.07 of this Chapter.

#### **Sec.15-04. - Standards.**

1. There shall be a minimum of 42 inches, exclusive of the area occupied by proposed outdoor seating, designed to allow adequate pedestrian movement. Outdoor seating shall only be permitted only when it is determined that the proposed seating areas will not create a hazard, a sight distance obstruction for motor vehicle operators, nor unduly impede pedestrian traffic. The City Manager shall determine when a hazardous condition exists.
2. Outdoor seating may only be located adjacent to the establishment with which it is associated and may not extend past the associated property frontage. Outdoor seating areas must remain clear of litter, food scraps and soiled dishes at all times.
3. Employees of the associated business shall continuously supervise outdoor dining areas.
4. Parklets shall not extend past the frontage of the associated business and shall not be more than 6' wide x 14' long as shown in Figure 1 below.

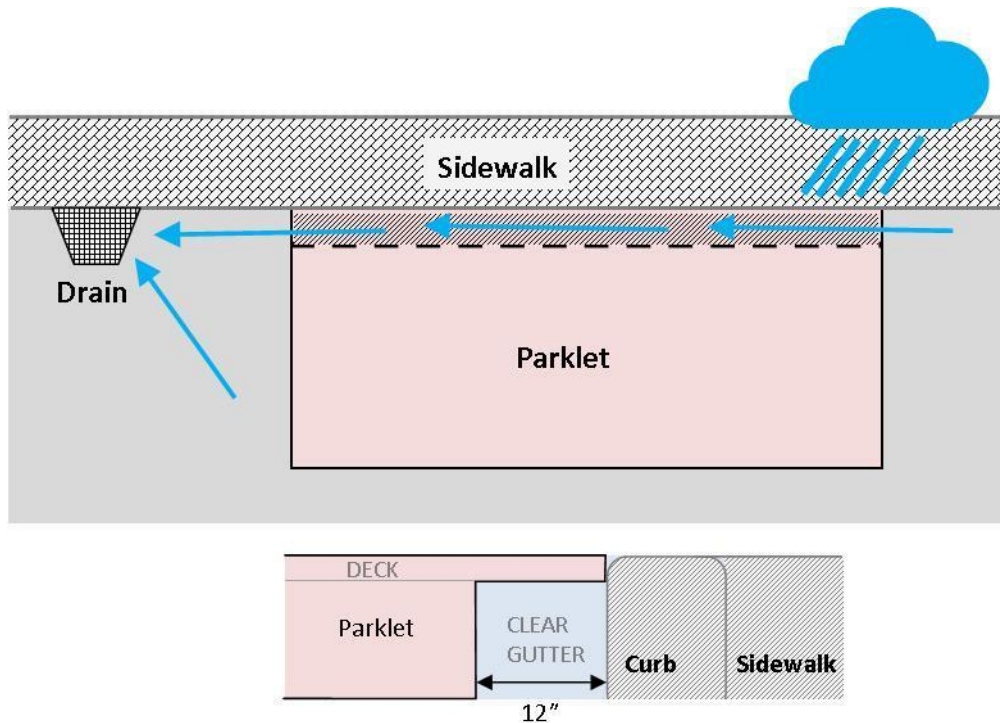
Figure 1:

### DESIGN AND PLACEMENT GUIDELINES



5. Parklets must utilize 3" curb stops on either end to prevent vehicular encroachment for adjacent parking spaces.
6. Parklets must utilize removable decking that makes the seating area level with the adjacent curb.
7. Parklet platforms must be constructed so as not to impede drainage as shown in Figure 2 below.

Figure 2: Parklet Drainage



8. Parklet boundaries must be delineated with barriers such as planters or a railing to physically separate patrons from pedestrian and vehicular traffic.
9. Furnishings for outdoor seating shall consist solely of readily removable railings, posts, tables, chairs, planters, table umbrellas and associated anchors. Furnishings may only be attached or secured in a manner approved by the City Manager.
10. No structure or enclosure to accommodate the storage of accumulated garbage may be erected or placed adjacent to or near the outdoor seating area. Each establishment shall be responsible for providing appropriate containers for disposing of garbage or waste and employees shall not use city trash containers for disposing of garbage or waste.
11. An outdoor seating area shall not interfere with any public service facility, such as a mailbox, fire hydrant, designated pedestrian crossing or bench located on a sidewalk or public property.
12. Operation of an outdoor seating area shall not adversely impact adjacent or nearby residential, religious, educational, or commercial properties and shall be in accordance with all applicable codes and regulations.
13. Tables, chairs, table umbrellas, railings, planters, and any other objects provided with the sidewalk cafe or outdoor seating shall be of quality design, materials, and workmanship both to ensure the safety and convenience of users and to enhance the visual and aesthetic quality of the area. Such equipment shall be routinely cleaned, painted, or replaced and may be inspected by the City Manager.



#### **Sec.15-05. - Operating restrictions.**

1. All outdoor seating areas shall be allowed to operate during the regular business hours of the associated business.
2. No alcoholic beverages shall be allowed in outdoor seating areas.
3. All food to be served within an outdoor seating shall be prepared within the associated establishment.
4. The outdoor seating permit issued in accordance with this Chapter shall be prominently displayed within the existing establishment along with other required permits and licenses.
5. From November 1<sup>st</sup> to May 31st, chairs, railings, posts, planters, table umbrellas, and other items shall be removed from the public right-of-way. It shall be the responsibility of the establishment to secure adequate storage of these items.
6. The maintenance of an outdoor seating area shall be the responsibility of the associated establishment including, but not limited to, surface treatment and cleaning, litter control, sweeping and snow and ice removal. The outdoor seating area shall be kept neat and clean at all times and free from any substance that may cause damage to the sidewalk or public property or cause pedestrian injury.
7. During periods of snow accumulation, the placement of tables, chairs, table umbrellas, railings, posts, planters, and other equipment associated with the operation of an outdoor seating shall be removed all activities shall cease.
8. The operation of an outdoor seating area shall not interfere with the set up or the operation of any special event. When there is a conflict, the outdoor seating area must be removed in its entirety for the duration of said conflict. Conflicts shall be determined by and in the sole discretion of the City Manager.
9. All tables, chairs, table umbrellas, railings, posts, planters, and other equipment associated with the operation of an outdoor seating area shall be removed and stored inside of the associated establishment each night.

#### **Sec.15-06. - Denial, revocation and suspension—Causes enumerated.**

1. The issuance of an outdoor seating permit may be denied by the City Manager, and permits issued may be revoked or suspended by the City Manager at any time, for any of the following causes:
  - a. Fraud, misrepresentation or any false statement made in the permit application.
  - b. Conducting a business in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, moral, safety or welfare of the public.
  - c. Failure or inability of an applicant to meet and satisfy the requirements and provisions of this Chapter and every other ordinance of the city.
  - d. Any violation received during the previous permit period.

**Sec.15-07. - Same—Hearing; demand; review; council powers.**

1. Any person whose permit is revoked or suspended, or any person whose application for a permit is denied, shall have the right to a hearing before the Board of Trustees, provided a written request therefore is filed with the City Manager within ten days following the delivery or mailing of the notice of revocation or suspension, or within ten days following the denial of the permit application. No person shall operate any outdoor seating area during any time when the permit therefore has been suspended, revoked, or canceled.

**Sec.15-08. - Revocation or suspension; notice required; service.**

1. Written notice of suspension or revocation, stating the causes therefore, shall be delivered to the permittee personally or mailed to the address as shown in the permit application. Upon revocation of a license, all furnishings and fixtures shall be removed from public property within 24 hours.

**Sec.15-09. - Renewal considered as original application.**

1. Unless otherwise provided in this article, an application for renewal of an outdoor seating permit shall be considered in the same manner as an original application.

**Sec.15-10. - Transferal.**

1. No permit issued under the provisions of this article or any other ordinance of the city shall be transferable.

**Sec.15-11. - Violations.**

1. Any person who operates a sidewalk cafe or outdoor seating on public sidewalks or public property, without a permit, or who shall violate any of the provisions of this article shall be subject to penalties as provided in the City of Creede municipal code.

**Sec.15-12. - Severability.**

1. If any clause, sentence, paragraph or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy and in which such judgment shall have been rendered.