



**MINUTES OF THE REGULAR MEETING OF THE  
PALISADE PLANNING COMMISSION  
November 16, 2021**

The regular meeting of the Planning Commission for the Town of Palisade was called to order at 6:00 pm by Chair Riley Parker with Commissioners present: Penny Prinster, Charlotte Wheeler, David Hull, and Vice-Chair Stan Harbaugh. Commissioner Andy Hamilton was absent. A quorum was declared. Also in attendance were Community Development Director Brian Rusche and Town Clerk Keli Frasier.

**AGENDA ADOPTION**

*Motion #1* by Commissioner Prinster, seconded by Commissioner Hull, to approve the agenda as presented.

A voice vote was requested  
Motion carried unanimously

**APPROVAL OF MINUTES**

*Motion #2* by Commissioner Prinster, seconded by Commissioner Wheeler, to approve the Minutes from the October 19, 2021, Regular meeting of the Palisade Planning Commission, as presented.

A voice vote was requested  
Motion carried unanimously

**PUBLIC COMMENT**

None was offered.

**PUBLIC HEARING I**

*PRO 2021-14 – Text Amendments To The Land Development Code (LDC) Bed And Breakfast*  
Chair Parker opened the public hearing at 6:04 pm.

Community Development Director (CDD) Rusche explained that this application was initiated by Palisade citizen Tammy Tallant. He went on to review his staff report, outlining the proposed changes, and specifying the approval criteria.

**LAND DEVELOPMENT CODE**

**Table 6.1, Use Table:**

The following is Table 6.1, Use Table, which details the allowable uses allowed under the Land Development Code within specified zoning districts. Impacted sections are highlighted in **RED/BOLD TEXT with new additions underlined and removals in strikethrough.**

Section 6.01 – Use Table

Table 6.1: Use Table												
Specific Uses Categories	Use Group	AFT	LDR	MDR	HDR	AMU	TC	CB	U	HR	OP	Specific Use Standards
School (public or private)								P			P	Section 7.02B
Technical, trade, business school						P	P	P	P		P	UPPER STORY ONLY IN TC
Utility, minor*	Pump stations, telephone exchanges, lift stations, electric substation or any similar use.	P	P	P	P	P	P	P	P	P	P	
Utility, major*	Water or wastewater treatment plant, water tower, electrical generation plant, wireless telecommunications or transmission facility or any similar use.	C									C	
Commercial Uses												
Agriculture, limited*	Orchard, vineyard, row and field crops, floriculture, pasturage, viticulture, tree or sod farm, silviculture; packing house for fruits or vegetables; produce stand; processing of fruits or vegetables or any similar use.	P									P	Section 7.03B
Amusement center, indoor							P	P	P	P		
Bed and breakfast		P	C	C	C	P	P	P		P		Section 7.03C
Brewpub							P	P	P	P		Section 7.03D
Club, private					C	P	P	P				
Distillery							C	P	P			Section 7.03D

**Section 7.03 Commercial Use Standards**

The standards of this Section shall apply to all permitted and conditional uses, as set forth in the Use Table (see Section 6.01). All uses shall meet or exceed applicable standards.

**C. Bed and Breakfast**

A bed and breakfast establishment is permitted subject to the following standards:

1. Either the owner or operator of the bed and breakfast must be a full-time resident of the **dwelling property** in which the bed and breakfast establishment is housed.
2. No exterior evidence of the bed and breakfast shall be allowed, except for one (1) wall sign no larger than twelve (12) square feet or one (1) free-standing sign not to exceed four (4) square feet and not to exceed a height of four (4) feet. A larger sign may be applied for under the conditional use permit process as defined in Section 4.07.
3. No food preparation, except beverages, is allowed within individual guestrooms. Meal service may be provided.
4. Preparation and service of food shall conform to all applicable regulations of the State of Colorado.
5. All parking areas on property (except driveways) shall be behind any building lines and must be screened from the view of adjacent residences to a height of six (6) feet by a solid screening fence or dense shrubs and vegetation.
6. Parties, receptions, events or similar functions intended to draw in excess of two hundred (200) people shall require a Temporary Use Permit and shall be limited to a total of six (6) such functions per calendar year.

**Section 14.02 Defined Terms**

**Bed and breakfast** means a building or buildings on the same parcel containing one (1) or more guest rooms for an overnight stay, which are rented at a daily rate.

**Section 4.01.E., Text Amendment Approval Criteria**

In evaluating any proposed amendment of the text of the Land Development Code, the following shall be considered:

1. The extent to which the proposed text amendment is consistent with the remainder of the LDC, including any purpose and intent statements;  
*The proposed text amendment is consistent with the remainder of the LDC. Both the definition and the standards for bed and breakfast distinguish the use from a short-term vacation rental in that the owner must reside on the property, and food is expected by the guests. The proposed amendment would allow a property more options to provide guestrooms that would all still meet zoning, fire, and building codes.*
2. The amendment must not adversely affect the public health, safety, or general welfare;  
*The proposed text amendment would not adversely affect the public health, safety, or general welfare as the establishment of a new bed and breakfast would still require review of zoning, fire, and building codes.*
3. The amendment is necessary because of changed or changing social values, new planning concepts, or other social or economic conditions in the areas affected;  
*The proposed amendment would remove unnecessary restrictions for the homeowner/operator of bed and breakfast to reside in the same building as all guests while retaining the oversight of the property that distinguishes this use from other lodging accommodations.*
4. The proposed text amendment revises the LDC to comply with state or federal statutes or case law; or  
*The proposed text amendment appears to be consistent with the Colorado Revised Statutes for the definition of bed and breakfast.*
5. The proposed text is found to be consistent with the Town's adopted comprehensive plan.  
*The adopted Comprehensive Plan delegates the regulation of individual land use actions to the Land Development Code. It has been asserted that Palisade is in need of additional overnight accommodations.*

Applicant Tammy Tallant (3819 N River Road) explained to the Commission that she has an Accessory Dwelling Unit (ADU) on her property that she currently rents out on a 30+ day basis. She submitted an application to the Community Development Department to turn that ADU into a bed and breakfast (B&B) and was advised that under the current Code, she was unable to do so. Ms. Tallant stressed that she does not want a vacation rental and has been working with CDD Rusche to work through this text amendment process in order to have a B&B on her property.

Chair Parker opened the hearing to public comment.

*Sheryl Young, 3857 N River Road*, stated she owns a six-acre peach orchard that she has been denied a B&B on because of the same issues Ms. Tallant has run in to. Ms. Young fully supports the text amendments and feels that the owner's requirement to live on the parcel is what makes a B&B different from a vacation rental.

*Jeff Snook, 424 W 8<sup>th</sup> Street*, asked what would prevent owners from labeling their vacation rentals as a B&B to get around Palisade restrictions?

Chair Parker opened the hearing to Commissioner comment.

*Commissioner Prinster* stated that a precedent has already been made, as an existing B&B has been operating with an ADU structure for years.

*Commissioner Harbaugh* noted that the definition of bed and breakfast needs to be revisited as a whole. He felt that allowing accessory dwelling units to be utilized as a B&B is blurring the lines between them and VRBOs. He went on to state that requirements need to be included regarding bathrooms, electricity, owner occupancy, etc. Commissioner Harbaugh feels that this may just be a way around VRBO restrictions and stressed that approval criteria #3 and #4 both don't apply nor fit this application.

CDD Rusche defended that the definitions already set the standards for allowable uses and that all building codes still apply, which require bathrooms, electricity, etc. Mr. Rusche didn't agree with Commissioner Harbaugh regarding approval criteria #3 and #4 and reasserted the findings regarding both.

*Chair Parker* noted that a breezeway attaching two buildings would suffice for the current Code, so it doesn't make sense to not approve this amendment. He added that details for specific plans would be discussed during the conditional use permit (CUP) process.

*Motion #3* by Commissioner Prinster, seconded by Commissioner Hull to approve PRO 2021-14 text amendments to the Land Development Code (LDC) bed and breakfast and forward a recommendation of approval to the Board of Trustees for the Town of Palisade.

A roll call vote was requested.

**Yes:** Commissioner Prinster, Commissioner Wheeler, Commissioner Hull, Chair Parker

**No:** Vice-Chair Harbaugh

**Absent:**

Motion Carried.

Chair Parker closed the public hearing at 6:37 pm.

## **PUBLIC HEARING II**

*PRO 2021-15 – Text Amendments To The Land Development Code (LDC) Family Child Care Home*

Chair Parker opened the public hearing at 6:37 pm.

CDD Rusche reviewed his staff report, outlining the proposed changes and specifying the approval criteria.

## **LAND DEVELOPMENT CODE**

The following amendment is proposed to these sections of the LDC, with words changes highlighted in **RED/BOLD TEXT with new additions underlined and removals in strikethrough.**

### **Section 7.02 Civic Use Standards**

The standards of this Section shall apply to all permitted, special and conditional uses, as set forth in the Use Table (see Section 6.01). All uses shall meet or exceed applicable standards.

#### **A. Child Care Center**

1. Child care centers shall conform to the regulations contained in the Colorado Child Care Facilities Licensing Act, which is administered by the Colorado Department of Human Services.



2. When operated within the HR district, child care centers must be done in conjunction with another commercial use.
3. **Child care centers do not include family child care homes located in places of residences and permitted as an accessory use (see Section 7.05.C.1.h).**

### Section 7.05 Accessory Uses and Structures

#### C. Accessory Use and Structure Types

1. Residential accessory uses and structures shall include but not be limited to the following:
  - h. **Family ~~child care home~~, no more than twelve (12) children subject to Section 7.05.D.12;**

### Section 7.05 Accessory Uses and Structures

#### D. Specific Accessory Use and Structure Standards

##### 12. **Family** Child Care Home

A **family** child care home shall be considered an accessory use to a residence in all districts, provided no more than ~~eight (8)~~ **twelve (12)** children are present on the premises at any one time. **Family child care homes are licensed and regulated under regulations issued by the Colorado Department of Human Services. A child care home with more than eight (8) children and up to twelve (12) children may operate as an accessory use to a residence only if approved by a conditional use permit by the Town Board in accordance with the provisions of Section 4.07.**

### Section 14.02 Defined Terms

~~Child care means a program or arrangement where three (3) or more children less than thirteen (13) years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four (4) hours but less than twenty-four (24) hours per day from persons other than their guardians or fulltime custodians, or from persons not related to them by birth, marriage or adoption.~~

**Child care center** means a child care arrangement in a location which is maintained for the whole or part of a day, where at any one (1) time, for less than twenty-four (24) hours a day there are five (5) or more children receiving child care. Child care center, as defined in this Section, meets the provisions set forth in Section 26-6-102(5)~~1(1.5)~~ of the Colorado Revised Statutes.

**Family ~~child care home~~** means a child care arrangement located in a place of a residence, where at any one (1) time, for less than twenty-four (24) hours a day, not more than twelve (12) children, receive child care.

### Section 4.01.E., Text Amendment Approval Criteria

In evaluating any proposed amendment of the text of the Land Development Code, the following shall be considered:

1. The extent to which the proposed text amendment is consistent with the remainder of the LDC, including, specifically, any purpose and intent statements;
 

*The proposed text amendment is consistent with the remainder of the LDC. The LDC already defines a child care home as having no more than twelve (12) children in a place of residence and treats it as an accessory use, so no changes are needed to Table 6.01 – Use Table. The amendment eliminates the need to obtain a conditional use permit for homes over eight (8) and up to twelve (12), which conflicts with the intent of the newly adopted Colorado State Law HB21-1222.*
2. The amendment must not adversely affect the public health, safety or general welfare;

*The proposed text amendment would not adversely affect the public health, safety or general welfare as the State of Colorado would retain licensing authority over the individual family care homes.*

- 3. The amendment is necessary because of changed or changing social values, new planning concepts, or other social or economic conditions in the areas affected;  
*Colorado has a shortage of licensed, safe, and affordable child care options, while at the same time, there is a growing need for child care in order to bolster the economy and allow parents to work, according to the State.*
- 4. The proposed text amendment revises the LDC to comply with state or federal statutes or case law; or  
*The Legislative declaration in HB21-1222 finds that a shortage of family care homes is a matter of statewide concern, and local governments must remove inconsistent regulations to expand opportunities to access child care in family child care homes.*
- 5. The proposed text is found to be consistent with the Town’s adopted comprehensive plan.  
*The adopted Comprehensive Plan delegates the regulation of individual land use actions to the Land Development Code.*

Chair Parker opened the hearing to public comment. None was offered.

Chair Parker opened the hearing to Commissioner comment.

*Motion #4* by Commissioner Prinster, seconded by Commissioner Hull to approve PRO 2021-15 – Text Amendments To The Land Development Code (LDC) Family Child Care Home and forward a recommendation of approval to the Board of Trustees for the Town of Palisade.

A roll call vote was requested.

**Yes:** Commissioner Prinster, Commissioner Wheeler, Commissioner Hull, Chair Parker, Vice-Chair Harbaugh

**No:**

**Absent:**

Motion Carried.

Chair Parker closed the public hearing at 6:42 pm.

**PUBLIC HEARING III**

*PRO 2021-16 – Text Amendments To The Land Development Code (LDC) Board Of Trustees Decision*

Chair Parker opened the public hearing at 6:42 pm.

CDD Rusche reviewed his staff report, outlining the proposed changes and specifying the approval criteria.

**LAND DEVELOPMENT CODE**

The following amendment is proposed to this section, with words changes highlighted in **RED/BOLD TEXT with new additions underlined and removals in strikethrough.**

**Section 3.10 Board of Trustees**

**A. Applications Subject to Board of Trustees Decision**

- 1. The Board of Trustees shall hold a public hearing in accordance with this LDC and the Board of Trustees bylaws.

2. The Board of Trustees shall consider the application, applicable review criteria, support material, Planning Commission recommendation (if applicable) staff report and any evidence and/or comments from the public hearing.
3. The Board of Trustees shall approve, approve with conditions or deny the application. The Board of Trustees may also remand the application back to the Community Development Director or the Planning Commission, whichever is applicable, for further review.
4. **The decision of the Board of Trustees on the application is effective upon an affirmative vote after the conclusion of the public hearing.** Unless specifically provided elsewhere, all decisions shall require an affirmative vote. A tie vote shall be considered a denial of any request.
5. ~~Within fourteen (14) days after a decision is made,~~ **A** copy of the decision shall be sent to the applicant and filed with the Community Development Director, where it shall be available for public inspection during regular office hours.

#### **Section 4.01.E., Text Amendment Approval Criteria**

In evaluating any proposed amendment of the text of the Land Development Code, the following shall be considered:

1. The extent to which the proposed text amendment is consistent with the remainder of the LDC, including, specifically, any purpose and intent statements;  
*The proposed text amendment is consistent with the remainder of the LDC. The Code's intent is that a decision made at the conclusion of the hearing is effective immediately and that notification of the decision is a courtesy. The proposed amendment makes that unambiguously clear.*
2. The amendment must not adversely affect the public health, safety or general welfare;  
*The proposed text amendment would not adversely affect the public health, safety or general welfare as all other provisions of the public hearing process remain unchanged.*
3. The amendment is necessary because of changed or changing social values, new planning concepts or other social or economic conditions in the areas affected;  
*The Code's intent is that a decision made at the conclusion of the hearing is effective immediately and that notification of the decision is a courtesy. The proposed amendment makes that unambiguously clear.*
4. The proposed text amendment revises the LDC to comply with state or federal statutes or case law; or  
*The proposed text amendment does not go against any state or federal statutes or case law.*
5. The proposed text is found to be consistent with the Town's adopted comprehensive plan.  
*The adopted Comprehensive Plan delegates the regulation of individual land use actions to the Land Development Code.*

Chair Parker opened the hearing to public comment. None was offered.

Chair Parker opened the hearing to Commissioner comment.

*Commissioner Prinster* asked if an application gets denied, does that mean it cannot be brought up again? CDD Rusche stated that applicants can always reapply if their application is denied.

*Motion #5* by Commissioner Prinster, seconded by Commissioner Hull to approve PRO 2021-16 – Text Amendments To The Land Development Code (LDC) Board Of Trustees Decision and forward a recommendation of approval to the Board of Trustees for the Town of Palisade.

A roll call vote was requested.

**Yes:** Commissioner Wheeler, Commissioner Hull, Chair Parker, Vice-Chair Harbaugh, Commissioner Prinster

**No:**

**Absent:**

Motion Carried.

Chair Parker closed the public hearing at 6:45 pm.

### **PUBLIC HEARING IV**

*PRO 2021-17 – Text Amendments To The Land Development Code (LDC) Screening Of Service Areas*

Chair Parker opened the public hearing at 6:45 pm.

CDD Rusche reviewed his staff report, outlining the proposed changes and specifying the approval criteria.

### **LAND DEVELOPMENT CODE**

The following amendment is proposed to this section, with words changes highlighted in **RED/BOLD TEXT with new additions underlined and ~~removals in strikethrough~~**.

#### **Section 10.04 Screening**

##### **B. Service Areas**

1. Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from residential properties or public rights-of-way.
2. Screening enclosures shall be fully enclosed by opaque walls or fences at least **eight (8) six (6) feet** high with self-closing access doors and shall be constructed of **the same materials as the primary building—brick, masonry, stucco, or wood.**
3. All service areas shall be limited to the area shown on an approved site plan.
4. All service areas shall be located a minimum of fifty (50) feet away from any residentially-zoned property line.

#### **Section 4.01.E., Text Amendment Approval Criteria**

In evaluating any proposed amendment of the text of the Land Development Code, the following shall be considered:

1. The extent to which the proposed text amendment is consistent with the remainder of the LDC, including, specifically, any purpose and intent statements;  
*The proposed text amendment is consistent with the remainder of the LDC. Screening is still required for all new trash enclosures, just not as tall.*
2. The amendment must not adversely affect the public health, safety or general welfare;  
*The proposed text amendment would not adversely affect the public health, safety, or general welfare as the enclosures would still be opaque and not accessible to the public.*
3. The amendment is necessary because of changed or changing social values, new planning concepts, or other social or economic conditions in the areas affected;  
*Staff has been approached by businesses who desire to improve their property but find that the current standard is too onerous, thereby defeating the objective of the standard.*
4. The proposed text amendment revises the LDC to comply with state or federal statutes or case law; or  
*The proposed text amendment does not go against any state or federal statutes or case law.*



5. The proposed text is found to be consistent with the Town's adopted comprehensive plan. *The adopted Comprehensive Plan delegates the regulation of individual land use actions to the Land Development Code.*

Chair Parker opened the hearing to public comment.

*Jody Corey, 424 W 8<sup>th</sup> Street*, suggested adding metal as an approved material (i.e., sheet metal, corrugated metal, etc.).

Chair Parker opened the hearing to Commissioner comment.

*Commissioner Hull* asked how setbacks would change due to the proposed text amendments? CDD Rusche answered that setbacks would not change with this amendment, only the minimum height.

*Chair Parker* expressed his support of adding corrugated metal as an approved material.

*Motion #6* by Commissioner Prinster, seconded by Commissioner Hull to approve PRO 2021-17 – Text Amendments To The Land Development Code (LDC) Screening of Service Areas with the addition of adding architectural metals as an approved material and forward a recommendation of approval to the Board of Trustees for the Town of Palisade.

A roll call vote was requested.

**Yes:** Commissioner Hull, Chair Parker, Vice-Chair Harbaugh, Commissioner Prinster, Commissioner Wheeler

**No:**

**Absent:**

Motion Carried.

Chair Parker closed the public hearing at 7:01 pm.

### **NEW BUSINESS**

#### *Comprehensive Plan update*

CDD Rusche announced that the Town of Palisade was awarded a grant to update the Comprehensive Plan (comp plan). The next step is to solicit help from a consultant, primarily for public engagement.

### **ADJOURNMENT**

*Motion #7* by Commissioner Hull, seconded by Commissioner Wheeler to adjourn the meeting at 7:05 pm.

A voice vote was requested.

Motion carried unanimously.

X   
\_\_\_\_\_  
Riley Parker  
Planning Commission Chairman

X   
\_\_\_\_\_  
Keli L. Frasier  
Town Clerk