



AGENDA
for the Planning Commission
of the Town of Palisade, Colorado
341 W. 7th Street (Palisade Civic Center)

November 16, 2021

6:00 pm Regular Meeting

<https://www.youtube.com/watch?v=CueMQDV4Id0>

- I. **REGULAR MEETING CALLED TO ORDER AT 6:00 pm**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL**
- IV. **AGENDA ADOPTION**
- V. **ANNOUNCEMENTS / PRESENTATIONS**
 - A. **MOMENT OF SILENCE:** The Commission will take a moment of silence in honor of the passing of former Commissioner Roland (Ron) Gearhart on November 3rd.
 - B. **PLANNING COMMISSIONER TRAINING:** December 9, 2021 from 5 to 8 pm in Conference Room 040A, located in the Mesa County Central Services Building at 200 S. Spruce Street in Grand Junction. Dinner will be provided. Please RSVP to kallis@gjcity.org by December 2, 2021
 - C. **PALISADE OLDE FASHIONED CHRISTMAS:**
Friday, December 3 - Tree Lighting at 5 p.m and Parade of Lights 5:30 p.m.
Saturday, December 4 – Olde Town Marketplace from 10 am to 4 pm.
For more information, contact the Palisade Chamber of Commerce.
 - D. **PUBLIC COMMENT REMINDER:**
All emails are to be sent to the Community Development Director at brusche@townofpalisade.org.
Emails for public comment on a specific agenda item received prior to the day packets are published will be included with the staff report. Emails received after the packets are posted will be forwarded to the Planning Commission.
Any member of the public who wishes to have a statement or email read into the Minutes is required to appear in-person at the meeting and make said statements to the Commission directly.
- VI. **APPROVAL OF MINUTES**
 - A. **Minutes from October 19, 2021, Regular Planning Commission Meeting**
- VII. **PUBLIC COMMENT – For items not on the Public Hearing agenda**
Please keep comments to 3 minutes or less, and state your name and address. Neither the Planning Commissioners nor staff will respond to comments at this time. The Commission may direct staff to look into specific comments to bring back as an Agenda item at a future meeting.

VIII. PUBLIC HEARING

The following items will be presented before the Planning Commission of the Town of Palisade for their consideration. The Planning Commission will formulate a recommendation, which will be forwarded to the Board of Trustees of the Town of Palisade. For those items for which the Planning Commission retains Decision Maker status, they will weigh the options and cast a vote.

A. **PRO 2021-14 – TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE (LDC) BED AND BREAKFAST**

The Planning Commission will consider text amendments to Section 7.03(C) – Bed and Breakfast standards and Section 14.02 – Defined Terms to allow sleeping rooms in separate structures outside of the primary dwelling but on the same property; and Section 6.01 – Use Table to clarify Bed & Breakfast as either a permitted or conditional use in certain zones.

The Planning Commission shall review the application and forward its recommendation to the Board of Trustees for consideration.

1. Staff Presentation
2. Applicant Presentation
3. Public Comment (*Please limit comments to **three (3) minutes**, state your name and address*)
4. Commission Discussion
5. Applicant Closing Remarks
6. Decision (*motion, second, roll call vote*)

B. **PRO 2021-15 – TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE (LDC) FAMILY CHILD CARE HOME**

The Planning Commission will consider text amendments to Section 7.05.D.12 – Child Care Home to allow up to twelve (12) children as a “family child care home” in accordance with state law, as well as amendments to Section 7.02.A – Civic Use Standards – Child Care Center, Section 7.05.C.1.h – Residential accessory uses, and Section 14.02 – Defined Terms to permit a family child care home as an accessory use to a residence in all districts.

The Planning Commission shall review the application and forward its recommendation to the Board of Trustees for consideration.

1. Staff Presentation
2. Public Comment (*Please limit comments to **three (3) minutes**, state your name and address*)
3. Commission Discussion
4. Decision (*motion, second, roll call vote*)

**C. PRO 2021-16 – TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE (LDC)
BOARD OF TRUSTEES DECISION**

The Planning Commission will consider text amendments to Section 3.10.A – Board of Trustees Decision to clarify that the final decision of a Board action is at the meeting at which the decision is made.

The Planning Commission shall review the application and forward its recommendation to the Board of Trustees for consideration.

1. Staff Presentation
2. Public Comment (*Please limit comments to **three (3) minutes**, state your name and address*)
3. Commission Discussion
4. Decision (*motion, second, roll call vote*)

**D. PRO 2021-17 – TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE (LDC)
SCREENING OF SERVICE AREAS**

The Planning Commission will consider text amendments to Section 10.04 – Screening of Service Areas to modify the requirements for trash collection screening enclosures.

The Planning Commission shall review the application and forward its recommendation to the Board of Trustees for consideration.

1. Staff Presentation
2. Public Comment (*Please limit comments to **three (3) minutes**, state your name and address*)
3. Commission Discussion
4. Decision (*motion, second, roll call vote*)

IX. NEW BUSINESS

A. Comprehensive Plan update

X. ADJOURNMENT



**MINUTES OF THE REGULAR MEETING OF THE
PALISADE PLANNING COMMISSION
October 19, 2021**

The regular meeting of the Planning Commission for the Town of Palisade was called to order at 6:00 pm by Chairman Riley Parker with Commissioners present: Stan Harbaugh, Charlotte Wheeler, Penny Prinster, Dave Hull, and Chris Curry. Commissioner Andy Hamilton was absent. A quorum was declared. Also in attendance were Community Development Director Brian Rusche and Planner Todd Widegren.

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.

ANNOUNCEMENTS / PRESENTATIONS

Community Development Director Rusche presented a Certificate of Appreciation to Commissioner Chris Curry for his service to the Planning Commission. Mr. Curry is moving to Dolores, Colorado to be closer to family and the Commissioners thanked him for his service.

Director Rusche announced a PLANNING COMMISSIONER TRAINING on December 9, 2021 from 5 to 8 pm in the Mesa County Central Services Building at 200 S. Spruce Street in Grand Junction. Dinner will be provided. He also mentioned the Mesa County Master Plan update has begun and offered the Commissioners the opportunity to participate in focus groups hosted by the County. Specific information was sent via email to the Commission.

Director Rusche updated the Commission on various Town projects, including the asbestos remediation and eventual demolition of the old Palisade High School and the design of the community clinic that will go in its place. Additional information about CDOT projects on Highway 6 in Palisade was also shared.

APPROVAL OF MINUTES

September 21, 2021, Palisade Planning Commission Minutes

Motion #2 by Commissioner Harbaugh, seconded by Commissioner Wheeler, to approve the September 21, 2021, Palisade Planning Commission Minutes as presented.

A voice vote was requested.
Motion carried unanimously.

PUBLIC COMMENT

None.

GIS PRESENTATION

Community Development Director Rusche and Todd Widegren, Planner, presented to the Planning Commission an overview of the newly updated Geographic Information System (GIS) for the Town of Palisade. This system was developed and funded by a grant through the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) under a contract with Gateway Mapping, Inc. a JUB Company. Mr. Rusche and Mr. Widegren answered questions from the Commission during the presentation. Mr. Rusche indicated that he would send the commission a link to the new maps, which will be available on the Town's website.

ADJOURNMENT

Motion #3 by Commissioner Hull, seconded by Commissioner Harbaugh, to adjourn the regular meeting at 7:21 pm.

A voice vote was requested.
Motion carried unanimously.

X

Riley Parker
Planning Commission Chairman

X

Brian Rusche
Community Development Director

PRO 2021-14, TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE

Section 7.03(C) – Bed and Breakfast

SUMMARY

An application was received from Tammy Tallant to amend the standards for a Bed and Breakfast found in Section 7.03(C) of the Land Development Code (LDC). The proposed amendments would allow sleeping rooms in separate structures other than the primary residence and would clarify the requirements surrounding food service.

After review and discussion with the applicant, the proposed amendments to food service requirements are no longer included in this request.

Staff is supporting the ability to have guestrooms in a structure separate from the main residence, so long as it is on the same parcel. This appears to be permitted in other communities as well as is consistent with Colorado Revised Statutes that define the characteristics of a bed and breakfast (see attached documents from Tammy Tallant). There will still be a review process required to ensure that any structure or structures meet the appropriate zoning, fire, and building codes to be utilized as a bed and breakfast.

Staff is recommending as part of this amendment changes to Table 6.1 – Use Table to modify the zones in which a bed and breakfast is either a permitted use or a conditional use. The goal is to ensure the appropriate level of review based on the potential location of future bed and breakfast uses. It is important to note that this change does not affect any of these uses which already exist under the current code prior to adoption of these amendments.

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~~**.

Table 6.1: Use Table												
Specific Uses Categories	Use Group	AFT	LDR	MDR	HDR	MU	TC	CB	LI	HR	CP	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

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 7.03 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, specifically, any purpose and intent statements;

The proposed text amendment is consistent with the remainder of the LDC. Both the definition and the standards for a bed and breakfast distinguish the use from a short-term vacation rental, in that the owner must reside on 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 the bed and breakfast to reside in the same building as all of the 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 Colorado Revised Statutes for the definition of a 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.

RECOMMENDATION

Staff is asking the Planning Commission to review the proposed text amendment to the LDC and make a recommendation, based on the above approval criteria, to the Board of Trustees. The Board of Trustees will review the application at a public hearing on January 11, 2022.

Dear Town of Palisade:

Applicant seeks this change to the bed and breakfast (B&B) text in the land development code (LDC) because as it currently reads, B&Bs are only permitted in the exact same building as where the owner lives (not accessory buildings).

Furthermore, one could interpret paragraph 3 to preclude guests from preparing any meals during their stay. I cannot think of a logical reason for this, given homeowner's have insurance to address any possible issues. Furthermore, this would mean that an establishment with kitchens, such as mine, would have to remove or close off any kitchen area.

In my opinion, this proposed amendment would accomplish several goals:

1. It creates a code that mirrors other bed and breakfast regulations throughout the state
2. It creates regulations that are more in line with a typical bed and breakfast
3. Unlike vacation rentals, it creates lodging that keeps local residents in their homes year-round
4. Unlike vacation rentals, the language ensures that the owner or operator of the B&B is onsite to monitor behaviors of the guests throughout their stay
5. It reduces unreasonable restrictions on homeowner's use of property
6. It increases lodging for tourists
7. It increases business for local establishments due to more guests staying in town

Thank you for your consideration.

Sincerely,
Tammy Tallant

Amendment sought to Section 7.03 (C). Bed and Breakfast

Current text reads:

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 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 people shall require a Temporary Use Permit and shall be limited to a total of six (6) such functions per calendar year.

Amendment Sought (in red print):

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 **at the residential property where** the bed and breakfast establishment is located. **The location must be a unit in which the owner or operator resides or a location on the same parcel where the owner or operator resides, to include any accessory structure of residential character that provides sleeping accommodations, running water, and bathroom access.**
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. **At least one meal is available to guests per day, provided by the owner or operator.**
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 people shall require a Temporary Use Permit and shall be limited to a total of six (6) such functions per calendar year.

Intent

Owner of the premises has an accessory dwelling, fully furnished, currently used as a short-term rental for one month or more (see pictures attached). Owner seeks to use the accessory building as a bed and breakfast for local tourists to use on a shorter term basis (one night or more). This would allow owner to maximize the earning potential of the property and host guests.

The amendment would allow this use, requiring approval of a conditional use permit (CUP) (LDC Table 6.1). CUP application has also been submitted for the Town's consideration if Amendment is approved.

Planned Development Criteria (LDC Section 4.03)

This amendment is consistent with the adopted plans of the Town, the Land Development Code (LDC) and Palisade's Comprehensive Plan, which identify the growth trends of Palisade, the tourism in Palisade, and the need for accommodations upon growth.

As it relates to this property or other properties that would fall within the B&B standards, this amendment would suit the land use code and generally fall within all standards therein. For example, this property already had a conditional use permit for the accessory unit to use as a law office. When operated under those conditions, the property maintained its character of low density residential and did not impact the neighboring properties.

This accessory unit in particular only has two beds, limiting it to one family (or a small group). Given the history of use of this property by the current owner and the size of the unit, there will be no adverse impact on the community.

It is well known in Palisade that accommodations for tourists is limited. The town's strict limitation on vacation rentals and limited room for development further impacts this, leading visitors to find accommodations outside of Palisade. This amendment would provide more opportunity for residents to gain income on properties, businesses to have more tourists in town in need of services, and provide tourists with needed accommodations.

By requiring a CUP, the Town is able to ensure that B&B's are suitable for the location and meet safety needs of the location.

The legal purpose for this amendment does not contradict the current Code. Rather, it removes unnecessary restrictions for homeowners and replaces those restrictions with provisions that meet the characteristics of a typical bed and breakfast. Currently, the Code requires that the property owner and guest reside in the same building. This amendment allows the owner and

guest to reside in different buildings while the owner maintains oversight of the property. This direct oversight of the property is what differentiates it from a vacation rental.

Examples of Other Definitions or Conditions for Bed and Breakfasts:

Colorado Revised Statute § 39-1-102 (2.5): “Bed and breakfast’ means an overnight lodging establishment, whether owned by a natural person or any legal entity, that is a residential dwelling unit or an appurtenance thereto, in which the innkeeper resides, or that is a building designed but not necessarily occupied as a single family residence that is next to, or directly across the street from, the innkeeper’s residence, and in either circumstance, in which:

- (a) Lodging accommodations are provided for a fee;
- (b) At least one meal per day is provided at no charge other than the fee for the lodging accommodations; and
- (c) There are not more than thirteen sleeping rooms available for transient guests.”

Colorado Revised Statute § 44-3-103 (4): “Bed and breakfast’ means an overnight lodging establishment that provides at least one meal per day at no charge other than a charge for overnight lodging and does not sell alcohol beverages by the drink.”

Bed and Breakfast Innkeepers of Colorado (BBIC) defines: “Traditional bed and breakfast establishments are residential in nature or reflective of residential character. The inn must have a resident innkeeper who is personally involved in the guests’ care. The resident innkeeper must live in the inn or in quarters within sight of the inn.” <https://www.innsofcolorado.org/faq>

City of Grand Junction: “Bed and breakfast means a house, or portion thereof, where short-term lodging rooms and meals are provided and where the operator of the house lives on the premises or in adjacent premises. A bed and breakfast is a type of short-term rental.”

<https://gjc.org/DocumentCenter/View/693/Ordinance-4813-PDF>

Merriam-webster Dictionary: “A house or small hotel in which someone can rent a room to sleep in for a price that includes breakfast the next morning. chiefly British : a service in which the price of a room also includes breakfast the next morning.”

Alamosa County: “Bed and breakfast Inn’ means an adaptive re-use of a single-family detached building as a place of overnight accommodation, in which: (i) eight or fewer guest rooms are rented for daily or weekly terms; (ii) breakfast is provided to guests; and (iii) the operator resides on the premises.”

<https://cityofalamosa.org/wp-content/uploads/2018/01/Alamosa-Development-Code-Adopted-12-6-17-01853621xA6534-1.pdf>

La Plata County: “Bed and breakfast: An overnight lodging establishment that is a dwelling unit, additional dwelling unit or an accessory structure thereto, in which an innkeeper resides on the site or that is a building designed but not necessarily occupied as a single-family residence and next to the innkeeper’s residence; provides at least one (1) meal per day at no charge; and

there are at least two 92) bedrooms, but. No more than thirteen (13) bedrooms, available for transient guests.”

www.airbnb.com: listings are categorized into the following home types:

- **Entire place:** Guests have the whole place to themselves. This usually includes a bedroom, a bathroom, and a kitchen. Hosts should note in the description if they'll be on the property (ex: "Host occupies first floor of the home")
- **Private room:** Guests have their own private room for sleeping. Other areas could be shared.
- **Shared room:** Guests sleep in a bedroom or a common area that could be shared with others.

PRO 2021-15, TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE

Section 7.05.D.12 – Child Care Home

SUMMARY

In 2021 the Colorado State Legislature passed HB21-1222 which was intended to help make it easier for people to operate “child care home” within a residence. The State Statute defines child care homes as “a state-licensed child care facility serving up to 12 children and operated by a person who resides in the same dwelling where the child care is provided”.

If a use meets this definition, the new statute requires local governments treat these facilities as residences for the purposes of licensures and local regulations, including zoning, land use development, fire and life safety, and building codes.

The proposed Text Amendment is intended to align the Land Development Code (LDC) with State of Colorado law.

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 Humang 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 full-time 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 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.

RECOMMENDATION

Staff is asking the Planning Commission to review the proposed text amendment to the LDC and make a recommendation of approval, based on the above approval criteria, to the Board of Trustees. The Board of Trustees will review the application at a public hearing on January 11, 2022.

PRO 2021-16, TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE

Section 3.10.A – Board of Trustees Decision

SUMMARY

Section 3.10.A of the Land Development Code (LDC) states:

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. Unless specifically provided elsewhere, all decisions shall require an affirmative vote. A tie votes 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.

This section applies to most land use actions that are considered quasi-judicial, including rezones and conditional use permits. 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.

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 votes 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.

RECOMMENDATION

Staff is asking the Planning Commission to review the proposed text amendment to the LDC and make a recommendation of approval, based on the above approval criteria, to the Board of Trustees. The Board of Trustees will review the application at a public hearing on January 11, 2022.

PRO 2021-17, TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE

Section 10.04 – Screening of service areas

SUMMARY

Commercial land uses often necessitate “service areas” such as loading docks, trash receptacles, and other items are stored outside of a building. These service areas are required to be screened through the provisions of Section 10.04 of the Land Development Code (LDC).

One specific screening requirement is that of trash collection, or dumpsters. The current standard requires a fully enclosed, opaque screening structure at least eight (8) feet in height. An enclosure of this size is considered a structure and, technically, requires a building permit, as well as must meet the setbacks the same as the primary structure. This requirement, however, can defeat the purpose of providing a screened location for these necessary functions and, as such, many existing commercial uses (prior to the adoption of the current code) simply do not have any screening.

The proposed amendment would reduce the height of the required trash enclosure to six (6) feet, which is consistent with the typical height of a fence. The enclosure would still need to be opaque, but an option of using fencing or other building type materials would be available. These proposed changes would incentivize businesses to construct trash enclosures by making it less onerous to comply with the screening standard.

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.

RECOMMENDATION

Staff is asking the Planning Commission to review the proposed text amendment to the LDC and make a recommendation of approval, based on the above approval criteria, to the Board of Trustees. The Board of Trustees will review the application at a public hearing on January 11, 2022.