

AGENDA
Fairplay Land Use Code (LUC) Revision
Steering Committee (SC) Meeting
Tuesday February 25, 2014
6:00 P.M.
Fairplay Town Hall
901 Main Street, Fairplay, Colorado

1. Call to Order.
2. Introductions (5 Min).
3. Consideration of appointment of Chair and Vice-Chair (5 Min).
4. Review/discussion about Steering Committee (SC) and its role (10 Min).
 - a) Expectations about the process
 - b) Planning issues
5. Review of project scope, timeline and meetings. (10 Min).
6. Discussion and feedback about questions in the meeting memo and identification of issues/concerns about the Land Use Code (1 Hr. 20 Min).
7. Review of initial input from town staff and consultants on LUC: (20 Min)
8. Other topics (10 Min).
9. Next meeting topics & target date (5 Min).
10. Adjourn 9:30.

This is to notice that three or more members of the Fairplay Board of Trustees may be present at this meeting with the Steering Committee. No formal actions will be taken at this meeting.

Posted at Fairplay Town Hall, Fairplay Public Library, Fairplay Post Office, and Town of Fairplay Website on Friday, February 21, 2013

FAIRPLAY STEERING COMMITTEE MEMORANDUM

TO: FAIRPLAY STEERING COMMITTEE
FROM: DAVIS FARRAR - WESTERN SLOPE CONSULTING LLC
SUBJECT: MEMO FOR FEBRUARY 10, 2014 MEETING
DATE: 2/7/2014
CC: TINA DARRAH, PROJECT TEAM

Leslie and I look forward to meeting with the committee again and working on the land-use code revision. The primary focus for the meeting on February 10 will be to discuss your perspectives on the land-use code (LUC) and changes that are necessary. This will include a series of questions for you all to ponder in advance of the meeting. Feel free to prepare written responses or simply think about the issues. Included in your packets will be comments from Town Administrator Tina Darrah, Planner Ron Newman, Town Attorney Lee Phillips and me.

We hope that you will find this process interesting, educational and fun. You do not need to be a planning expert or developer to effectively participate. There are two primary avenues for approaching this process. The practical and non-technical approach is to identify the types of outcomes you would like to see the land-use code establish through the regulations. For example, the community survey found that a majority of Fairplay community residents supported design standards to improve and maintain a quality appearance of structures. The LUC presently includes historic preservation requirements. This section could be expanded or a new section could be added to the LUC on design standards for historic and/or new construction. The other approach focuses on the more technical aspects of the LUC that applicants may experience as they prepare their development applications or that town staff and trustees experience as they use the regulations. It will be important for us to hear both from community members not experienced with regulations as well as the professional development community. You may recall that there were several questions in the community survey that asked about the LUC. The majority of responses indicated that most folks were not familiar with the regulations and could not answer the questions. The following are a series of questions that we are asking that you consider for discussion at the meeting.

- Should the new LUC include illustrations to help the user understand the concepts in the code?
- Are tables and charts useful and might they help the user more easily find the information they are seeking in the LUC?
- For those that are familiar with the LUC, what do you feel are the strengths of the current regulations and conversely what are the weaknesses?
- Are the regulations easy to understand and is it possible to readily find the relevant sections in the document?

- What are your feelings about code enforcement and is this section of the document adequate or does it need to be strengthened or toned down?
- Are there new sections that should be incorporated into the LUC such as lighting regulations, mixed use zone districts, provisions for home based businesses or others?
- Does the land-use process take too long or is it cumbersome?
- If the process is too lengthy or cumbersome, how might the LUC be streamlined?
- The LUC includes an agricultural zone district that is not often used and which creates some conflicts in Fairplay. Should consideration be given to eliminating that zone district?
- There are 12 different zone districts in Fairplay. Does this seem like too many districts and should some of them be consolidated or eliminated?
- Mobile home parks are an allowed use in the LUC. Should the existing parks be allowed to remain as pre-existing nonconforming uses and new mobile home parks be prohibited?
- Should there be a close tie between the LUC and the comprehensive plan to ensure that the concepts in the plan are effectively implemented?
- Alternatively, should the comprehensive plan only be a general guiding document that may or may not be implemented by the LUC?
- Is the existing LUC logically structured and formatted in a manner that makes it user friendly? If not, what improvements could be made?
- Are the definitions in the regulations sufficiently clear and specific? If there are definitions that are not clear and specific please identify those for clarification.
- Will illustrations help make definitions more understandable? For example, measuring building height on sloping terrain might be better explained with an illustration.
- Should development standards allow for flexibility as long as an alternative is equal to or better than the current standard or should the standards remain and be adhered to in all cases? If flexibility through alternatives should be considered, what might those options be?
- Should the LUC include new development standards that are not presently addressed? For example, lighting, landscaping requirements, etc.
- Outside storage of equipment, materials etc. can be an issue. Should the Code include storage standards and requirements depending on a particular zone district? For example, outside storage in a commercial zone district should be screened or equipment stored in an industrial zone district might be left unscreened under certain circumstances. In another circumstance, should rental equipment such as forklifts be allowed to be stored with the lift extended to its highest operating position to draw attention?

- Do the existing sign regulations allow sufficient business identification without creating sign clutter or detracting from the community's appearance?
- Should illuminated and animated signs be allowed? You may have seen the new LED signs in larger communities. These signs can actually play short videos and can display animations. Should these types of signs be allowed in Fairplay and if so, under what conditions?
- Are there uses or activities in Fairplay that are not presently addressed by the LUC that should be addressed?
- Do you feel that there is adequate public notice and opportunity for public input when new development is proposed? If you feel that the existing LUC is not adequate, what changes would you suggest?
- Have you worked with or are you aware of other communities regulations that you would like to see considered as part of Fairplay's LUC?
- Do you have any priorities to be considered as part of the LUC process?
- Are there other topics or issues that you would like to see addressed as part of the LUC revision?

We look forward to discussing these subjects with you at the upcoming meeting. Please feel free to contact the town staff if you have any questions or need additional information.

FAIRPLAY LUC REVISION MEMORANDUM

TO: FAIRPLAY STEERING COMMITTEE
FROM: DAVIS FARRAR - WESTERN SLOPE CONSULTING LLC
SUBJECT: COMMENTS ON ZONING REGULATIONS
DATE: 2/7/2014
CC: TINA DARRAH, PROJECT TEAM

Article III - Zoning Districts & Map

General comment - The code should include tables and graphics to make clear the intent and the purpose of definitions and/or regulatory provisions.

16-1-10 Purpose

Expand the language regarding the comprehensive plan and its applicability to zoning.

16-1-40 Definitions

Consider including illustrations with some definitions to better clarify the terms. For example, building height measured on slopes or an illustration of building height with a mansard roof. It is good to have the definitions in the front of the zoning regulations.

16-2-40 Amendments and Rezoning

There are references to the planning commission. Consider adding language that states “in the absence of the planning commission...”.

Consider adding criteria for evaluating rezoning’s such as conformance with the comprehensive plan, change in land use, adjacency to the same zone district, prohibition on “spot zoning”.

16-2-50 Applicability of Regulations; Density Limitation

(b) Consider allowing more than one principal building on a lot for commercial and/or industrial parcels. Modify the language “except as may be otherwise provided herein.” to reference other applicable sections to avoid an applicant having to review the entire zoning regulations sections to ensure that there are no other applicable sections.

(c) Where a line designating the future width of any street or highway is shown on a comprehensive plan, official map or state highway plan, or is established in any other way, a front yard depth or building setback shall be measured from such line instead of from any other existing front line. (Ord. 1, 1994 §2.6; Ord. 11, 2002 §1). This language is confusing. Setbacks etc. should be measured from the property line and not some theoretical line. This should be clarified.

16-3-10 Establishment of Districts

Consider reducing the number of zone districts. A small town like Fairplay does not need 12 separate zone districts.

16-3-20 Official Zoning Map

Revise zoning map based upon Comprehensive Plan & fewer zone districts.

Include language about compliance with the comprehensive plan to the extent that is desired.

(e) There is a reference to the planning commission on allowance of uses. This should be eliminated if there is no planning commission or should be restated to state “in the absence of the planning commission...”.

ARTICLE IV

Zone Districts - Zone districts should be described in a table indicating within each district the permitted uses, special uses and prohibited uses. It easier for folks to use a table than it is to read through pages of text. Similarly a dimensional standards table could be used for lot dimension, setbacks, building height etc. Again, this makes it easier for users to access the information.

ARTICLE XV PUD Planned Unit Development District/Overlay

16-15-50 Subdivision provisions modification authorized.

It may be useful to reference that modifications of specifications, standards and requirements should not result in a reduced standard, instead, modification should be equivalent to or better than the standards included in the land-use code.

16-15-70 Overview of PUD procedure; integration with subdivision procedures.

The references to a planning commission should be revised to identify what happens in the event there is not a planning commission.

16-15-90 Form of PUD Approval.

The attorney should address whether a PUD approval should be by ordinance because it is a zoning designation.

16-15-120 Permitted Uses.

A PUD is an overlay district. This section of the regulations allows any land-use permitted in any zone district. This is inconsistent with an overlay designation. Many times PUD's only allow uses that are otherwise allowed in the underlying zone district. Certainly, there could be some flexibility in this, but this topic should be discussed from a practical and legal perspective. A PUD should be compatible with the surrounding zone districts and uses.

16-16-20 Accessory Uses.

(b) It might be useful to define a height standard for antennae because certain antennas can be massive and intrusive in some zone districts.

16-16-30 Home Occupations.

There should be some discussion about home occupations and home businesses. This was discussed as part of the Comprehensive Plan. The primary issue is compatibility and intrusion on residential neighborhoods. Issues such as traffic volume, hours of operation, noise, lights etc. must be considered. At the same time, allowing home occupations or home businesses expands the economic opportunities in a community and builds community dynamic.

16-16-40 Fences, Walls and Obstructions.

(5) Permits Required. The town may wish to consider adding language requiring a survey if the fence is to be constructed on or very close to a property line and where property corners are missing or determination of that property line is difficult absent a survey.

16-16-60 Wind Energy and Photovoltaic Systems.

Consideration might be given to updating this code section to address the evolving aspects of alternative energy systems. Photovoltaic and solar thermal used for on-site use of produced energy should be encouraged and allowed without difficulty. Similarly, wind energy systems for on-site generation and use of energy are appropriate. It should be noted that wind energy systems can make noise that some may consider a nuisance. Wind and solar energy systems constructed for off-site use of energy (a.k.a. windfarms and solar farms) should be regulated as a special use because of their size and impacts such as glare, turbine/blade noise and other factors.

ARTICLE XVII Parking

Consideration should be given to allowing some credit for on-street parking in commercial areas where off-street parking is not appropriate or unavailable. Parking requirements should include bike racks to encourage and accommodate that use. As noted previously, illustrations are valuable to show different types of parking designs and standards.

Other.

The downtown commercial areas might allow street vendors in locations that do not inappropriately compete with existing businesses. The town may already manage these uses through a license.

ARTICLE XVIII Signs

Illustrations are valuable in the sign code section. Sign codes can be a complex and difficult section of the regulations. Often sign code input is mixed with fact and fiction. Newer electronic LED signs can function like a television screen and can be over lit, distracting and incompatible with an area. It will be important for the committee and others to discuss the existing signage conditions in Fairplay with consideration to what works well and what does not work. It is not necessary to reinvent the wheel with the sign regulations and there are plenty of good and bad examples in Colorado. Historic and creative signs are sign types that should be given consideration. Window signs and temporary banners/signs are other areas that should be discussed with regard to what works and what does not work.

16-21-40. Nonconforming lots or parcels.

The comprehensive plan discusses allowing original townsite (25 feet by 100 feet or 110 feet) lots to be used for individual building sites. The zoning regulations should be amended to allow for construction on these lots. It will be important to identify where these lots exist and show them on a parcel map.

16-22-70. Powers of Board of Adjustment

“(2) No variance shall be authorized hereunder unless the Board of Adjustment shall find that the following conditions exist:” It is not clear whether this language requires that all five conditions must exist. If that is the case, this language could be modified to state “all of the following conditions exist.”

ARTICLE XXIII Historic Preservation Committee

General Comment. It would be useful to have illustrations in the historic preservation section of the regulations to clearly communicate the desired characteristics to be achieved with the review process.

The committee and staff should evaluate whether these regulations are achieving the desired outcome for the town. The community survey results showed a very strong interest in design standards throughout the town in addition to the Historic District Overlay Zone.

The checklist for design review shown in 16-23-60 is a valuable tool for applicants and the committee. Similar checklists should be developed for other sections of the code to help applicants navigate the submittal requirements. Flowcharts can be developed to help an applicant understand the timing and sequencing of the review process.

ARTICLE XXVI Medical Marijuana

Is it necessary to include this entire section in the land-use code. It seems it would be simpler to simply identify medical marijuana or other marijuana facilities as prohibited uses in the zone district use table. This ordinance would be on file with the town showing the prohibition on medical marijuana and retail marijuana.

FAIRPLAY LUC REVISION MEMORANDUM

TO: FAIRPLAY STEERING COMMITTEE
FROM: DAVIS FARRAR - WESTERN SLOPE CONSULTING LLC
SUBJECT: COMMENTS ON SUBDIVISION REGULATIONS
DATE: 2/7/2014
CC: TINA DARRAH, PROJECT TEAM

Chapter 7 - subdivisions

General comment - The code should include graphics to make clear the intent and the purpose of definitions and/or regulatory provisions.

17-1-10. Purpose.

Consider adding language addressing general conformance to the Comprehensive Plan.

17-2-20. Definitions.

Where appropriate, consider adding illustrations to embellish the definitions.

Clarify/modify references to the planning commission and the Board of Trustees serving in that role in the absence of the planning commission.

17-3-20. Application for subdivisions.

(2) Add language that the final plat must be filed within a defined timeframe (30 days) after approval by the Board of Trustees.

17-3-40. Recording procedures.

See previous, about timeframe for recording final plats.

ARTICLE IV Procedures - Major Subdivisions.

Consider adding a flowchart with timelines for each subdivision process.

There are references to a planning commission and it should be made clear that in the absence of a planning commission, the Board of Trustees will serve in this capacity.

It is possible in Adobe PDFs to insert links to other sections of the regulations to make it easier to move back and forth between referenced sections. The new land-use code should be set up as a PDF and utilize this feature. It is always difficult to page back and forth through these documents to find other sections that are referenced.

17-4-10. Preliminary subdivision plan/plat approval.

The Fairplay subdivision regulations require a pre-application conference and this is apparently in lieu of a subdivision sketch plan submittal. This streamlined procedure reduces the number of meetings

and time necessary for processing an application. The pre-application conference is valuable to allow the staff to convey to an applicant development related issues and provisions of the comprehensive plan. The applicant does not have the opportunity to run their concept plan by the planning commission or in lieu of the planning commission the Board of Trustees for additional input. The town may wish to consider an optional sketch plan process if an applicant chooses to present their concept to the Board of Trustees. This becomes a philosophical question is much as anything. When an applicant moves directly to preliminary plan they are faced with spending considerable dollars on engineering. If the planning commission/trustees do not like the plan, the applicant is out substantial dollars and may wish to legally challenge the town's decision. This is something that we should discuss.

17-4-20. Final subdivision plan/plat approval.

The planning commission is referenced extensively in the subdivision regulations. If there is no planning commission, this language should be revised to identify the Board of Trustees.

Checklists should be developed for the preliminary and final plat applications. It would also make sense to develop a form to determine general conformance with the comprehensive plan. Conformance with the comprehensive plan should be presented to the Board of Trustees during the review process and should be part of their decision-making.

17-4-20. Final subdivision plan/plat approval.

It may be useful to include a section on phased development so the process is clear to the town and an applicant. Larger developments are often developed on a phased basis. An applicant should submit a phasing plan. The challenge with phased plans is determining compliance with a phasing schedule. These are often determined by market conditions which change and often are unknown. The concern is that the town would be faced projects in which the latter phases are not developed in a timely fashion.

The planning commission review criteria are valuable for determining whether a final plat conforms to the approved preliminary plan. This can be a serious problem when a final plat does not conform to the preliminary plan. At the same time, some flexibility needs to be provided to an applicant without substantially altering the town approved preliminary plan.

Again, the subdivision procedures have a planning commission review step and Fairplay does not currently have a planning commission. This issue should be discussed.

It may be useful to have one section of the land-use regulations that describes the public hearing process for all reviews. The section could be linked throughout the code in a PDF version. It is always confusing to have different public hearing procedures and time frames for the various types of applications.

In phased developments, the Code should include language that requires each phase to be self-sufficient in terms of infrastructure. Rights of ways should extend (where appropriate) to the boundary of the development to allow future roadway connections to adjoining properties. Design standards should prohibit cul-de-sac designs that restrict connected roadway circulation within a project and to adjoining future development.

Subdivision improvements agreements should include provisions that prohibit issuance of building permits until infrastructure is installed and inspected by the town. Sometimes applicants request

approval to initiate construction of dwelling units before street paving is installed or other improvements are completed. While this makes sense sometimes, these arrangements often go awry. Even in cases where property owners sign an acknowledgment form that certificates of occupancy's will not be issued until all of the infrastructure has been completed and inspected, property owners are known to come before the elected boards attempting to get a certificate of occupancy before infrastructure is completed. This situation should be avoided.

Subdivision improvements agreements may also include cost recapture provisions to allow developers to recoup the additional costs of oversized infrastructure designed to accommodate future development on adjacent properties. These agreements are commonly used in development and there are good models that have been used by other municipalities.

Inspection of infrastructure is a critical component in new development. Poor inspection or a lack of inspection often results in failed infrastructure that becomes the town's responsibility to repair or replace. Subdivision improvements agreements must include inspections by qualified personnel. These inspections are made at the cost of the applicant as part of the development process.

The economic downturn that began in 2008 revealed both the strengths and weaknesses of subdivision improvements agreements. Many projects filed for bankruptcy and developments were left incomplete with partially constructed infrastructure. Adequate collateralization is critical in these situations to ensure that infrastructure is completed or otherwise finished to allow for later development. Fairplay should design their subdivision improvements agreements after real-world examples of successes and avoid the problems with inadequate improvements agreements/collateral.

ARTICLE VII Design Standards

The town engineer may wish to weigh in on the subdivision design standards detailed in section 17-7. In general, these standards look complete. Fairplay may wish to consider flexibility to allow narrower street widths and traffic calming measures to make roadways more pedestrian friendly and work with traditional neighborhood design concepts. Coordination on these concepts must be made with the fire district. Historically there has been some unwillingness by municipal engineers and fire districts on these narrower roadway configurations. Obviously, it is important to provide access for fire/emergency vehicles, but narrower streets with on-street parking make neighborhoods better places to live and they slow the speed of traffic.

17-10-30. Elimination of lot lines.

(2) This paragraph references that elimination of lot lines will not result in parcels exceeding a lot size maximum. The value of this language is questionable. The zoning regulations reference minimum lot requirements, but do not appear to address maximum lot size.

Tina / Davis:

Below are some comments on the existing Zoning & Subdivision codes. This is a start and I am sure I will have more.

ZONING

Article I General Provisions

Sec. 16-1-10 Purpose – this section should have a strong reference to the Comp Plan.

Sec. 16-1-40 Definitions – It is my opinion that we should have one article for definitions for the whole land use code. We currently have a definition section for zoning, one for subdivision and several sections that have definitions for that section. I think definitions should be in one place. Also, the current code has words defined that are not in the code text. I would be happy to help with this – after the first draft, a word search should be done and the appropriate words defined.

Article II Administration and Enforcement

Sec. 16-2-10. Administration of Chapter – reference to Town Planner and Comp Plan should be added.

Article IV R-1 Residential One District

Sec. 16-4-10. Purpose – In each of the Use Articles (R-1, R2, etc.) the “Purpose” section needs to be looked at. Some are too long and redundant.

Sec. 16-4-20. Permitted Uses – Each “Permitted Uses” sections states, “The following uses shall be permitted.” This suggests that a permit is required. I think cleaner language would state “allowed or allowed by-right.” (I know this is planner-ese but I think it is clearer.)

Section 16-4-30. Special Uses – General Comment – I think the appropriate term is “Conditional Uses.” Conditional uses are those uses that are generally compatible with the other uses allowed in a zoning district but require individual review of location, design, density, intensity of use, etc. and require conditions to mitigate any adverse effect. Also, no outdoor storage, screened or not, should be allowed in any zone district except C-2.

Sec. 16-4-40. Accessory Uses – add Accessory Dwelling or make it a Special/Conditional Use.

Article VIII R-B Restricted Business District

Sec. 16-8-20. Permitted/Allowed Uses – (4) reference to 3.2% fermented malt beverages (beer) should be eliminated. This goes back to the 3.2 drinking age being 18 – this is no longer law.

Article IX B Business District

Sec. 16-9-50. Minimum Lot Requirements – (6) If we are going to require landscaping, we need to have a section in the code defining what is appropriate and not just leaving

it up to the PC to decide – that is too arbitrary. We should allow xeriscaping and other alternatives.

Article X C-1 Commercial One District

Sec. 16-10-20. Permitted Uses – We need to address dumpster location and screening. Also, there are several uses listed that would be more appropriate in C-2; i.e. (2), (4), (5), (6).

Article XIII H Historic District Overlay Zone

General Comments – An overlay district is not a zone district, but that is the way our code defines it. This needs to be cleaned up before we address other changes. As you all know, an overlay is superimposed over a base zoning district adding additional regulations but not changing the underlying zoning. I think the intent of our overlay is to regulate the design elements of new construction and major modifications, to make them compatible with style scale and materials of our built environment in Fairplay. We need to address those elements.

Article XV PUD Planned Unit Development

General Comments – I think the whole article is confusing and too wordy. A PUD is an overlay and not a zone district, but has many elements such as specific uses, a subdivision element and capital improvements. Maybe we could clean this article up.

Article XVII Parking

General Comments – We need to remove any language that states that the PC must approve all parking plans – this is a staff function unless the proposed parking does not meet code.

Article XXII Historic Preservation Committee

General Comments – This article should be combined with Article XIII.

SUBDIVISION

Article III Administration and Enforcement

General Comments – Some of the language in this article is redundant – repeated in later sections. If it can be said once, that would be great, but if there are differences in other sections, then it should be stricken from this article.

Article X Subdivision Exemption

Sec. 17-10-20. Lot Line Adjustment – This section needs to be re written with terms like unsubstantial removed or defined.

General Comments on the Subdivision Code

Although the code is fairly complete, it is extremely difficult to read. I would like to make it more user friendly, if that is possible.

1/31/2014

Davis,

Here are my notes from my read-through of the current LUC:

CHAPTER 16:

All public hearing notices for land use actions should be reviewed and clearly laid out – it would be helpful if they were as close to the same for all actions as possible. Look at adding noticing on website. Make sure they make sense – see Sec. 17-5-20 (f) for a confusing one!

Should we address adult oriented businesses?

Should we address accessory dwelling units?

Does/should the definition of structure in the zoning code match the definition of structure in the building code? For example – if a patio is not considered a structure in the zoning code but is in the building code does this cause confusion?

Sections 16-2-40 (h) and 16-2-50 (c) – are these ok? Legal?

Should we get rid of Ag zone?

Need to look at minimum lot requirements for R1, R2, R3, RMH, RB and B zones.

Why is floor area 864 square feet of finished floor area for dwelling units? – this number is different in RB and B districts.

Do we want to allow new mobile home parks in Fairplay? Should these just be a nonconforming use? Do our two existing parks meet the requirements? See Section 16-7-90 existing parks.

In R3 we don't allow single family or duplex – do we want this?

Historic Overlay – is it a zone district or an overlay? Need to determine area for it to be applied – rewrite this and Article XXIII – Historic Preservation Committee. In regards to this – there is currently no committee so PC acts as Committee – but BOT acts as PC – so no appeal process... “reminds me of “I’m my own Grandpa” poem... This article needs work – make sure process is not overkill for simple projects like a reroof.

Parking – scope and regulations applies to ALL – including residential – if the applicant meets the requirements of the parking regulations, they should not have to go through the planning commission/bot approval process – should be staff, especially in the case of residential. Is cash in lieu of parking spaces realistic? Are the reg's still good/applicable? Is 48 hours in 16-70-80 too long? Complaints of semi at 8th and Front as example.

Sign Code - off-premise signs are prohibited which means no sandwich boards/banners except on property – we haven't really enforced this. Nor have we enforced the car signs section – 16-18-70 (think Pat Pocius's vehicle on Main Street). Class A banner allows banners on Main Street only – we have no banner poles (that work) on Main Street, but we do place banners on Town property and allow them on South Park City's fence, the school, etc. No neon allowed in RB zone – do Park Bar and Millonzi's have neon signs? No freestanding signs in C1-C2 for multiple store fronts – but we have this in the form of monument signs – seems confusing? Master sign plan is required for multiple store fronts and it must be approved by the PC – probably fine, but if they meet the reg's why have it go before the PC? Pg. 16-78 – subdivisional directional signs must be placed a minimum of one mile from subdivision – this seems like too far? I think this whole section needs to be reviewed and streamlined.

We have only done a small number of special use permits in the last five years – process worked fine. Does this mean that our uses are appropriate - or that we aren't enforcing the code properly? Probably a combo of both and a slow economy.

CHAPTER 17:

Section 17-5-20 (f) look at hearing dates – makes no sense.

Only need one mylar to be signed then we record and get copies for Town and applicant.

How do appeals work with no PC?

Should we have our Town Engineer review street/sidewalk/etc. design standards?

17-8-20 and 17-8-70 Fees - need to be revisited.

OTHER:

I haven't found our LUC difficult to use or understand. I think there are processes that could be streamlined. The Historic Preservation sections do need to be updated and made easier to use. The sign code should be revisited as well. While I understand the desire to be "clutter-free" when it comes to signs – we need to be able to address the number one concern we hear from Front Street business owners – "people don't know we exist" – if we could place signs (sandwich boards, maybe?) on Main Street would that help?

We have only done a small number of special use permits in the last five years – process worked fine. Does this mean that our uses are appropriate - or that we aren't enforcing the code properly? Probably a combo of both and a slow economy.

We need to discuss the number of committees required in the code – the Town has had a difficult time finding in-Town residents willing to serve on the Planning Commission – should we look at different types of committees – with different residency requirements? Should we look at reappointing a Planning Commission once this code is adopted?

Clearly we need to address things like design standards, landscape standards, trails, sidewalks, etc. All of these are addressed in the goals as adopted in the Comp Plan.

Here are the goals from the Comp Plan that pertain to the LUC rewrite/update:

CCD I-1 1,2,3

CCDI-2 4,5

CCDI -3 (FYI – we are working with CCCD to design the gateway at Main & 285 – 1st meeting is Feb. 12th)

T-2 2

E-1 1,3,4,6,7

E-4 1

H-1 1,3,4

H-2 1

EC-3 1,4

EC-6 1,2

CSI – 1 4

CSI – 2 2,6

LUP – 1 2

That's all for now! Talk to you soon.

Tina



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TOWN OF FAIRPLAY
MEMORANDUM

TO: TINA DARRAH, TOWN ADMINISTRATOR

FROM: HERBERT C. (LEE) PHILLIPS, TOWN ATTORNEY

DATE: FEBRUARY 7, 2014

RE: REVIEW OF CURRENT LAND USE ORDINANCES

As requested, I have reviewed the current Chapters of the Fairplay Municipal Code addressing zoning and subdivision in anticipation of a complete rewrite of the Town's land use codes and regulations. My thoughts and comments are as follows:

CHAPTER 16 – ZONING

As an initial comment, the Town's zoning ordinance is a fairly typical "Euclidean" zoning scheme. It establishes various zoning districts and sets forth the uses by right, accessory uses and special uses in each district. It also allows for planned unit developments (custom zoning); variances; home occupations; legal nonconforming uses and includes general sign and parking regulations.

For the most part I find the existing zoning ordinance clear and well-written. As we have discussed, there is a modern tendency toward form-based zoning, performance zoning and other more fashionable (or at least trendier) types of codes. I believe, however, that the classical Euclidean codes are still workable and lead to predictable and fair zoning decisions. Conversely, my experience with form-based codes has been that they seem to be difficult to implement and apply. My preference would be to retain a traditional Euclidean zoning code.

February 7, 2014

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With that preface, my comments on the existing zoning ordinance are as follows:

- I think we should modify the requirements for notice of violations to allow posting of the notice on the property when other methods fail. This complies with due process guarantees and would allow the Town to proceed with enforcement even with vacant properties.
- In Section 16-2-40(h) the language allowing a legal protest (requiring an enhanced majority of the Board of Trustees for approval) “against proposed changes to the text of this Chapter” should be deleted. Legal protests should only pertain to actions affecting specific property.
- If we end up retaining the current zoning code structure with identified zoning districts, I would suggest that we consider the addition of a new Mixed Use (MU) zone district. We might consider replacing the existing R-B Restricted Business zone district with an MU zone district.
- I note that in several sections we have a minimum lot area of 5,800 feet. Like many older mountain communities, I believe Fairplay has a large number of 25 x 100 foot lots. Thus, I think the minimum lot size should be divisible by 2500.
- We need to consider whether the Town will allow residential uses in business districts, other than when associated with a business or as a legal non-conforming use. Allowing residential use delays the conversion of properties in transitional areas to the desired and permitted business use. Conversely, the number of the current vacancies in business areas in Town is unsightly and creates a poor business atmosphere whereas fully occupied structures, even if used for non-commercial purposes, might improve the aesthetics.
- I wonder if it’s really necessary or appropriate to have an agricultural zone district in Fairplay. There are few agricultural operations within the Town limits and those should probably be legal non-conforming since they are an ongoing source of conflict with, and not compatible with, the adjoining residential uses. If we retain the agricultural zone district, I would suggest that the existing 5 acre minimum lot size be increased.
- Just a note that we are in the process of rewriting and expanding the Historic District Overlay Zone.
- I suggest that the new land use code contain a template of the PUD Agreement required by Section 16-5-150. This reduces the amount of negotiation with developers and also makes the process more predictable for them.

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- Most references to the Town Clerk should probably be changed to “Town Administrator or his/her designee.” This allows for more administrative organizational flexibility.
- We might want to either revisit the parking lot driveway widths in Section 16-17-60 or determine whether some of the parking fields in Town are compliant. Disclaimer—this is sort of a personal gripe. It is almost impossible to park a pick-up truck at Prathers despite the fact that about half the folks around here drive one. The turning radii just aren’t there.
- Section 16-18-120(b)(1) should be rewritten to simply refer to the general penalties set forth in Chapter 1, Article IV.
- The height limitation provisions in Section 16-21-30 are out-of-place.
- The Board of Adjustment quorum provision at Subsection 16-22-30(b) should simply say a majority rather than “two members.”
- The Historic Preservation Committee Article (XXIII) might be repealed with the BOT acting as the Committee and the review criteria folded into the Overlay Chapter.
- Just a note that Article XXVI was updated to include a prohibition against recreational as well as medical marijuana sales, cultivation and manufacturing.

CHAPTER 17 – SUBDIVISIONS

- Although it is almost universal to have separate and distinct processes for preliminary and final plats I have never really understood why. In practice the applicant usually combines the two processes if that option is available. There may be very good reasons to have a separate preliminary and final plat, and we should discuss them, but I’d suggest that we at least consider combining the two and having one process for subdivision approvals.
- Section 17-6-10 requires a number of plat details that: (i) seem unnecessary and more appropriate for a PUD; and/or (ii) are generally not required in practice despite the Code requirement soils and geologic conditions for example). I’d suggest that we go through these to make sure we really want the plat covered up with these items.
- Sections 17-6-30 and 17-6-40 repeatedly address the requirement for a subdivision improvement agreement (SIA) with security for performance. These different discussions are redundant and sometimes inconsistent and should be consolidated.

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- On the same topic I would suggest that we have a template form of SIA incorporated into the code for the same reasons we should have a template PUD Agreement.
- Section 17-7-40 is repeated in the Codification.
- The Land Dedication requirements contained in Article VIII need a complete rewrite to require the *Nolan/Dolan* rational nexus individualized determination. My firm has several examples that can be supplied if you wish.
- I would suggest that the Land Reservation provisions found at Article IX be deleted.
- Lot consolidation is a big issue in most small mountain towns since the standard lot is unbuildable because it doesn't meet the minimum lot size requirement, and since construction across lot lines technical violates setback requirements. The lot consolidation process should be simple, quick and handled at the administrative level. Section 17-10-30 allows for elimination of lot lines but limits it to two lots. This section should be rewritten.

I hope this is helpful. As always, please let me know if you have any questions.

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