

# CHAFFEE UNITED

## SUMMARY AND ANALYSIS OF PLANNING COMMISSION PROPOSED CHANGES

### 8.26.16

The Planning Commission is holding a public hearing: **Tuesday, August 30, 2016 at 6:30 p.m.** at the **Commissioners Meeting Room, 104 Crestone Ave., Salida.** The full agenda can be viewed [here](#). Staff reports have been prepared for each issue and links are provided to each report below.

In preparation for the upcoming August 30<sup>th</sup> Planning Commission Public Hearing, Chaffee United has prepared the following for interested Chaffee County residents:

1. A summary of proposed changes with links to the County's documents.
2. A summary of the Chaffee United Citizen's Alternative Recommendations.
3. A summary of community development data created by Chaffee United to gain a better understanding of land development trends.

Note that the schedule for the Public Hearing is fully packed and only allows for 15 minutes of comment per issue. Please come prepared with comments in writing for submittal!

Thank you!

#### 1. Summary of Proposed Planning Commission Changes to Land Development Code

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##### A. Open Space Dedication Requirement

###### Proposed amendments by County:

[Link](#) to County Staff Report

**Section 7.3.7.C.2 – Park, Trail, and Open Space Dedication** – Add to the last sentence “or Minor Subdivisions”.

“Development of lower density rural areas into higher density residential areas necessitates additional opportunities for recreation. Depending on the location, number of units, density, and other considerations, the developer may choose to provide an internal park, passive open space, or public trail facilities. The following considerations shall be applied in determining which land areas are appropriate for dedication as parks. Dedications are not required for Subdivision Exemptions or Conservation Subdivisions **or Minor Subdivisions.**”

**Section 4.3.3.C1.f** – Open Space Plan – add (for Rural Open Space Incentive only)

“C. Final Plat.

1. Application. A Final Plat application shall only be submitted following a Pre-Application Conference as described in Section 4.1.3 A. The required application materials are set forth

below; the Planning Director shall identify which application materials are required at the Pre-Application Conference:

- a. Basic Application Materials (Section 4.6.2 B)
- b. Narrative (Section 4.6.2 C1)
- c. Vicinity Map (Section 4.6.2 D2)
- d. Impact Analysis (Section 4.6.2 E)
- e. Land Suitability Analysis (Section 4.6.2 F)
- f. Open Space Plan (for Rural Open Space Incentive only) (Section 4.6.2.3)''

**Summary of Current Policy and Proposed Change:**

The development code currently requires that all subdivisions except Subdivision Exemptions (those for 35 acres or more) or Conservation Subdivisions (major cluster subdivisions that include significant open space conservation) to reserve or dedicate public sites and open space for schools and parks that are reasonably necessary to serve the residents of the proposed subdivision and future residents.

The current code requirement for open space is **for each residential unit created 0.1 acres must be dedicated to parks, open space, or trails**. The code permits the Board to accept payment instead as either a sum of money or for services to construct public facilities such as schools and trails. A developer may request to construct a public trail identified in a long range planning document that is in or near the proposed development in lieu of making a land dedication. By legal precedent and law, these in lieu of payments may not exceed the full market value of the original requirement. The code **does not** currently permit an in lieu of fee for open space.

The change to **Section 7.3.7.C.2** would modify the subdivision of land requirement to exempt Minor Subdivisions (2-4 lots ) and apply only to Major Subdivisions (5+ lots).

The change to **Section 4.3.3.C1.f** would modify the requirement for an open space plan in the final plat to apply only to Rural Open Space Incentive (ROSI) cluster subdivisions.

**Chaffee United Analysis**

Chaffee United does not disagree with the County’s rationale that in some subdivisions open space may not be appropriate. However, Chaffee United does not support simply having no open space requirements to get around this issue. Instead it supports an in lieu of fee option. To achieve open space goals, most County’s include an in lieu of fee to provide developers an option to contribute financially, such as is already done with trails and schools. A dedicated open space fund could help achieve many of Chaffee County’s goals for recreation, agricultural conservation, and resource protection. Given the majority of subdivisions in Chaffee County are minor subdivisions, Chaffee United does not support this exclusion. The exclusion of minor subdivisions would preclude significant financial contributions to an open space fund over time.

## B. Visual Analysis

### Proposed amendments by County:

[Link](#) to County Staff Report

Section 4.3.3C.1.i; 4.3.4.B.1.k; 4.3.4.C.1.k; 4.6.2.M.2, – Visual Analysis - Strike.

Sections 4.3.3.A.1 item g, 4.3.4.A.1 item h; - Visual Analysis- add a reference to Section 4.6.2M1.

View Protection Guidelines Section 7.2.4A – Applicability- add to paragraph after nonresidential buildings “non-agriculture buildings” Section 7.2.4B – Visibility - Strike “To the maximum extent feasible structures should” and replace with “It is suggested structures be sited...” and add “may” between structure and include in the last sentence of 7.2.4B.

### Summary of Current Policy and Proposed Changes:

The current regulation requires all applicants to submit a Visual Analysis that requires an illustration of the existing features of the site as viewed from the roadway corridor and depicts the location and design of the proposed development. The analysis requires:

- Illustrations of the proposed development.
- A map locating proposed roads and utilities and identifying the area proposed for development.
- Grading, landscaping and illumination plans.
- A written statement depicting how the development mitigates visual impacts of affected areas.

The current policy goals are intended to protect the visual resources of Chaffee County critical to our long term economic prosperity and the enjoyment of residents. Chaffee County’s Collegiate Peaks Byway stretches 57 miles through Chaffee County and is a significant economic driver for tourism. The Scenic Byways and Heritage Plan identified several iconic viewsheds that are vital to both the Scenic Byways and Chaffee County’s sense of place.

The current Chaffee County code contains three sections which reference visual resources.

- *Section 4.6.2.M* which requires developers to conduct a visual impact analysis and share that information with the County.
- *Section 7.2.4* which provides the guidelines for visual resource protection. These are general and leave the developer freedom to determine how to specifically meet these goals.
- *Section 2.2.2. B.8* which provides development guidelines for in the Recreation Zone avoiding ridgeline development where buildings might be silhouetted against the skyline when viewed from the Collegiate Peaks Scenic Byway.

The proposal would move the requirements for Visual Analysis to the Sketch Plan phase of all subdivisions and no longer require the duplication of Visual Analysis submittal at Preliminary and Final Plat phases. The proposal includes adding a Visual Analysis line item (4.6.2M1) to the sketch plan process to LUC 4.3.3A1 under item g for Minor and ROSI Subdivisions and LUC 4.3.4A1 under item h for Major Subdivisions. This LUC change clarifies that a Visual Analysis shall be required for Minor, ROSI, and

Major subdivisions **at sketch plan only**. The proposal also includes deleting LUC Section 4.6.2M2. If approved the text of the code will read as follows:

### **Chaffee United Analysis**

Chaffee United appreciates the County has not completely struck the section from the code. However, it does not support removal of visual analysis from a final plat review. Moving to the preliminary plat ensures that these considerations are considered early in the process which is more efficient and cost effective for the developers. However, there is no guarantee that the guidelines or actions will be followed if not part of the final plat review, particularly if significant changes are made to the development plan between sketch plan and final plat.

Protection of the visual character along the scenic byways is important to our County's economy as well as quality of life. Visual impact mitigation requirements or development standards are intended to make it easier for developers to understand how to build in ways that protect these important assets and generally provide guidance for blending housing into natural surroundings. Communities frequently develop design guideline documents with more specific design instruction to complement broader policy goals. These can be either voluntary or mandatory and applied in specific areas or applied countywide. Alternatives, other than removal, exist to increase the efficiency and effectiveness of the code.

The following alternatives were proposed to the Planning Commission by citizens.

1. **In Section 4.6.2.M require a visual impact analysis, but be more specific about when it is required and for what scale of development.** The current visual impact analysis requires a photograph or rendering of the site and a written summary that identifies how the developer met the visual protection guidelines. Visual impacts are generally incremental, but major subdivisions and commercial development can have significant impact individually. At a minimum, visual impact analysis should be required for all major subdivisions and commercial development with the same applicability as stated in 7.2.4.B. (developments visible from the US or State Highways, County Roads, and the Arkansas River). For minor subdivisions of 4 residences or less, make the requirements applicability based upon the sensitivity of the location or at the discretion of the Planning Department Director.
2. **In Section 7.2.4.B. be more specific about sensitive viewshed impact locations.** Many resource protection standards may state specific areas, distances from roads, road sections, etc. to prioritize particular viewsheds. A more detailed analysis and description of locations could be prepared that would minimize when impact analysis might be required and reduce regulatory oversight where it is not necessary.
3. **In Section 7.2.4 require that a homeowner's association for an approved subdivision develop in its covenants standards to achieve the goals of the visual resource protection standards for areas identified in the code.** Developers who create lots but do not build can be required to create covenants that will meet visual resource protection goals in Section 7.2.4.B.

4. **Create detailed design guidelines that are voluntary, but provides more clarity on how to achieve the intent of the visual resource protection standards.** The code would reference the best practices in Section 7.2.4 View Protection Guidelines as a voluntary resource available to developers.
5. **Clarify the unclear language in Section 7.2.4.A for Applicability.** Current this reads: *“Applicability. This section is applicable to all new non-residential buildings, multi-family residences, and new subdivisions, for structures that would be visible from US or State Highways, County Roads, and the Arkansas River.”* Clarification of language might read: *“to all non-residential buildings, commercial developments, and residential developments that would be visible....”*

Additionally, the word smithing suggested for this policy document is redundant and unnecessary. In policy, it is a commonly known practice that shall and should have different meanings. From the site <http://asq.org/standards-shall-should> we can see that Googling these terms will yield a number of official results clarifying the meaning.

1. **Shall:** When used as an auxiliary verb, shall, according to Webster's Online Dictionary, “denotes a requirement that is mandatory whenever the criterion for conformance with the specification requires that there be no deviation” (2). This word implies obligation and is traditionally used by laws and regulations. For example, Chapter V of the Federal Food, Drug, and Cosmetic Act (FD&C Act), “Drugs and Devices,” begins with the following: “A drug or device shall be deemed to be adulterated –” (3).
2. **Should:** Should “denotes a guideline or recommendation whenever noncompliance with the specification is permissible.” When used as an auxiliary verb, it expresses “a conditional or contingent act or state ... or moral obligation” (5). For example, “Incoming materials should be inspected before they are accepted in warehouse” is a recommendation by the document writer. It allows the document users to make their own judgment calls.

### C. Subdivision Water Supply Requirements

#### Proposed amendments by County:

##### [Link](#) to County Staff Report

Section 7.3.4.A1 Subdivision Fire Protection/Water Supply/Fire Cisterns – Strike entire section requiring fire cisterns.

#### Summary of Current Policy and Proposal:

The County currently requires adequate water supply for fire protection, currently through the provision of cisterns. The proposal is to delete the prescriptive provisions for fire cisterns from the LUC. This change would have no impact on the requirement for adequate water supply, the installation of fire protection facilities by the applicant, and the maintenance provisions for fire protection systems.

The proposal would shift the burden of determining that adequate fire protection systems exist from the County Staff, PC, and BOCC to the various fire protection districts. It was discussed that County Staff, PC, and BOCC are not experts in fire protection systems and that the fire protection regulations should

be drafted and enforced by those who are better qualified to make the determination of adequate fire protection, namely the Fire Protection Districts. I

**Chaffee United Analysis**

Chaffee United does not agree or disagree with this proposal. Instead it questions whether accurate and thorough information was reviewed during this dialogue. Chaffee United would like to see a better discussion occur regarding regional cooperation and county land use goals for fire protection.

The question of whether the County Planning Commission are experts is the wrong question. Instead the question ought to be how can the County and Fire District work together to best ensure fire hazards and threats are reduced and mitigated. The County does have a legal authority by state law to assess and make requirements about the safety of subdivisions with regards to ingress/egress, water supply, fuel mitigation, and location mitigation. To simply abdicate the county’s role because the current Planning Commission feels inadequately prepared is short sighted. It is beneficial long term to have the Fire Districts and County come up with a standard set of development principles that can be applied across the county consistently.

For example, per water supply concerns raised during the work session, there appeared to be a misunderstanding regarding state law and how fees can be collected to support fire suppression. Fremont County, which had a fire recently, and Park County were selected as rural peer communities and noted that they did not have any requirements in their codes. However, they do have collaborative agreements in place with the fire districts. A recent state [law](#) permits fee collection by the County for fire suppression as long as there is an intergovernmental agreement between the fire district and the County. Our neighbors to the east in Fremont County have these IGA’s in place.

Canon City: <https://www.colorado.gov/pacific/canoncacityfire/inspections-and-impact-fees>

Hartsel: [http://www.theflume.com/archive/article\\_f0ed1173-c2fd-5ae0-b5f3-12939cb57d96.html](http://www.theflume.com/archive/article_f0ed1173-c2fd-5ae0-b5f3-12939cb57d96.html)

In the future, a collaborative discussion between community members, legal experts, and fire experts with greater knowledge about subdivision development and fire suppression policy may prove beneficial to long term public safety goals for the County.

**2. Summary Chart of County and Chaffee United Citizen’s Alternative Recommendations**

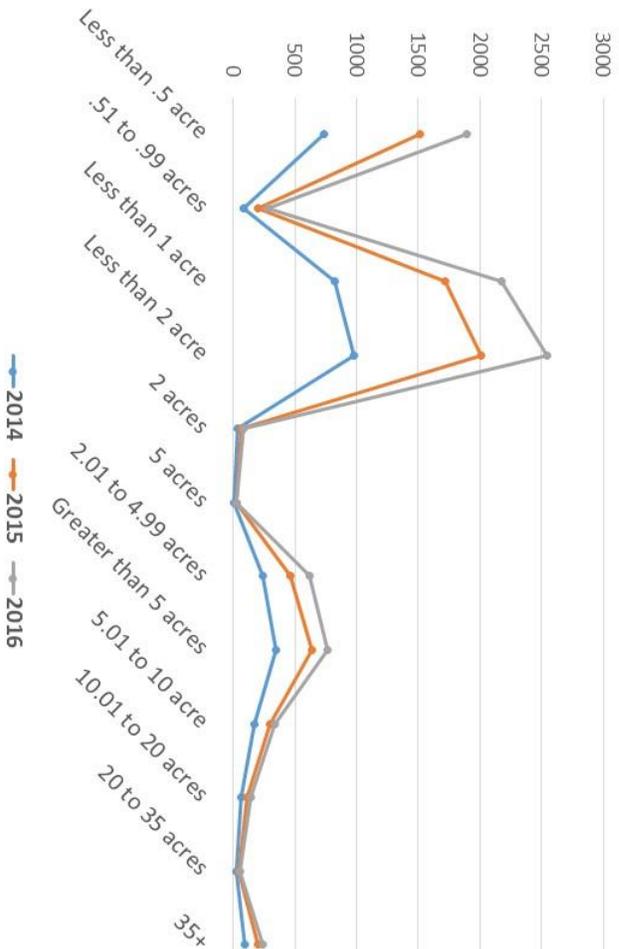
<b>Planning Commission Proposal</b>	<b>Citizen Proposal</b>
1. Remove open space dedication requirement for minor subdivisions.	A. Maintain current dedication requirement and add in lieu of fee option.
2. Move visual analysis requirement for all developments to sketch plan.	B. Maintain visual resource protection standards but clarify where necessary and make the need for the visual analysis more specific, such as through a voluntary guidelines guidebook. Agree on early sketch plan review but not on having an update or summary of changes from sketch plan to final plat included in final review.

<p>3. Increase the permitted density for Rural Recreation and Recreational zones from 1 dwelling unit/5 acres to 1 dwelling/2 acres. (not on Aug 30<sup>th</sup> hearing agenda)</p>	<p>C. Maintain current allowable densities for traditional subdivisions to maintain an incentive for development patten that protects rural character.</p>
<p>4. Increase the maximum allowable density in the Residential zone from 2 dwelling unit/1 acre to 4 dwelling units/1 acre. (not on Aug 30<sup>th</sup> hearing agenda)</p>	<p>D. Assess where higher densities in Residential zone can be achieved and are most appropriate in three mile area around towns and cities consistent with desired regional growth plan. Designate future growth areas with appropriate high densities based on infrastructure and land suitability.</p>

**3. Background Information: Land Development Trends**

To better understand the development trends in Chaffee County since the code change, Chaffee United analyzed all of the County Assessor data that is available on line. The trends demonstrate that when looking at the sales of both residential and vacant property, the majority of the demand is for urban lots of 2 acre or less. We are an urbanizing county.

## ALL VACANT & RESIDENTIAL SALES: COUNTY ASSESSORS DATA



Percent Sales	2014	2015	2016
Less than .5 acre	45.72	49.12	44.69
.51 to .99 acres	5.4	7.21	8.96
Less than 1 acre	51.18	56.34	53.66
Less than 2 acre	60.73	64.74	63.56
2 acres	2.05	1.88	2.48
5 acres	0.62	0.94	0.59
2.01 to 4.99 acres	14.83	14.12	18.51
Greater than 5 acres	21.77	18.32	14.86
5.01 to 10 acre	10.73	7.78	5.19
10.01 to 20 acres	3.97	3.26	3.42
20 to 35 acres	1.86	1.07	1.18
35+	6.08	6.27	5.19

This trend is also demonstrated in an analysis of land development pattern completed for the Chaffee County Hazard Mitigation Plan. This Geographic Information Analysis (GIS) map shows that the development pattern in the rural parts of the county are lots of 10 acres or more. The 2-5 acre lots are primarily exurban lots clustered near towns or roads.

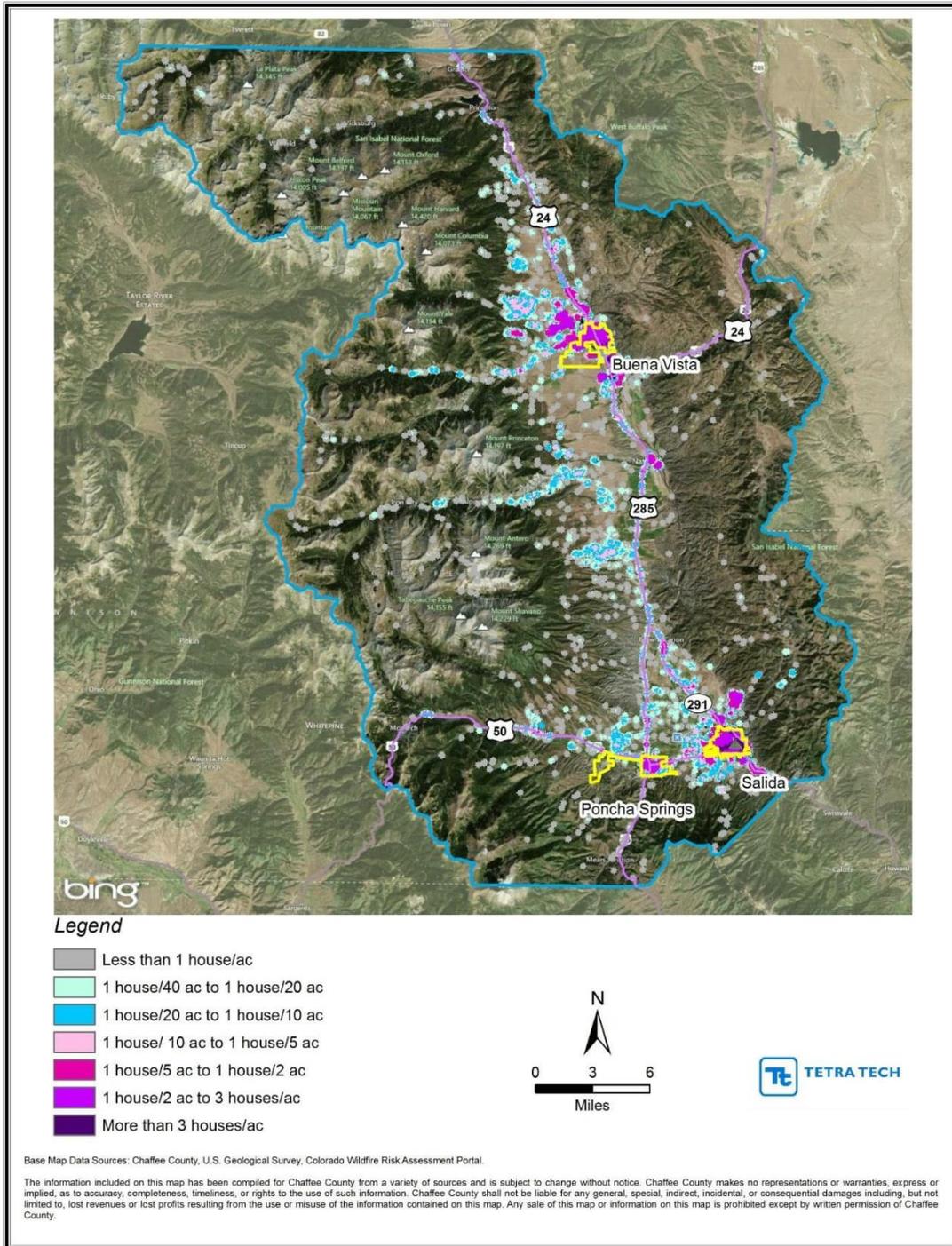


Figure 17-1. Chaffee County Housing Density Within the Wildland Urban Interface

Chaffee United suggests gaining a much better understanding of the market and policy results prior to code changes, particularly on density.