

MEMO

TO: Chaffee County Planning Commission: Mike Allen, Chair, Karin Adams, Vice-Chair, Rick Shovald, Rob Treat, Tracy Vandaveer, Bruce Cogan and Dan McCabe.
CC: Dan Swallow, John Roordan
FROM: Sig Jaastad, Kathy McCoy, and Marjo Curgus
DATE: June 27, 2016
RE: Citizen Alternatives to Planning Commission Proposed Code Changes

To the Planning Commission,

The land use code Section 4.4.2 permits land use code amendments to be initiated by the Board of County Commissioners, the Planning Commission, the Director, or a member of the general public. As community members who participated in the development of the current development code, we submit for formal consideration these alternatives to the options currently being proposed by the planning commission. Given there is not a substantive public process that we are aware of except the ability to comment during public hearings, we have chosen to use the alternative avenues available to us to share our expertise.

These are presented in the spirit of continuing the cooperation and collaboration achieved during both the Citizen's Roundtable and development code update which found common ground between the diverse interests represented in our County. As a reminder of where common ground was found and where disagreement existed, we are attaching Appendix G (page 3) from the Citizen's Roundtable Report. We believe strongly we should continue to build on shared values where possible and engage in open dialogue where disagreements are likely.

To develop these recommendations, we have considered opinions expressed at the recent Planning Commission meetings, reviewed the current code, reviewed peer communities codes, and reviewed guiding policy documents. We also looked at current demographic trends, real estate information, and studies on the local economy. We would be happy to share background information upon request.

Except for density changes proposed for the Rural and Recreation zones where we propose *no change*, we have tried to identify modifications to the code that both make the code more efficient as well as more effectively meet the intent of intended policies. Our desire is to have these proposals provide the Planning Commission with alternatives and additional information during deliberation for the upcoming Tuesday, June 28, 2016 work session and those that follow. We do not propose these are yet the perfect solutions. However, these are common best practices where we can learn from other Colorado communities and not have to "reinvent the wheel" nor "throw the baby out with the bath water".

We strongly believe that the proposals offered by the Planning Commission alter the intent of the policy documents that guide decision making including the Comprehensive Plan, Citizen's Roundtable Recommendations, Scenic Byways Plan, and even the intent statements in the development code itself. We also strongly believe that when the Planning Commission or Board of County Commissioners change the direction of policy, it requires a higher level of public education and engagement than simply using the old "Decide, Announce, Defend" model of public hearings. We are hoping that the Planning Commission will wisely decide that there are definitely more options available than what they have proposed and recognize that Chaffee County citizens should be more involved prior to making decisions that will have lasting implications for all of us.

We are happy to meet with individual Commissioners or the Commission as a whole to discuss these proposals in more detail. We would appreciate if you would acknowledge receipt of this proposal and communicate to us next steps and the dates for formal consideration by the Planning Commission. We plan to share this proposal widely with community members in an effort to educate the community about County planning, growth management, the proposed Planning Commission changes under consideration, and possible alternatives. Our goal is to not to generate additional conflict in our community, but to build capacity for a community wide dialogue about what kind of future we want for our County and how the citizens and local government can work together to achieve shared goals.

Sincerely,

Marjo Curgus
Sig Jaastad
Kathy McCoy

Enclosure: Appendices, Citizen's Roundtable Recommendations

Summary of Planning Commission Proposed Changes

The Planning Commission's proposed changes as understood based on access to limited information include the following. These proposed changes were on the Planning Commission agenda for April 26, 2016.

1. Removing the open space dedication requirement for all subdivisions. (Section 7.3.7.C.2.c)

The current regulation requires reservation or dedication of public sites and open space for schools and parks that are reasonably necessary to serve the residents of the proposed subdivision and future residents. *In lieu of* a dedication of sites and land areas, the Board may accept payment instead as a sum of money or of services to construct public facilities. By legal precedent and law, these in lieu of payments may not exceed the full market value of the original requirement.

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. 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. While an in lieu of fee payment is currently allowable for both schools and for public sites, it is not currently permitted for open space.

2. Removing the visual analysis requirement for all developments. (Section 4.6.2.M)

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.

3. Increasing the density for the Rural Residential and Recreation zones from 1 dwelling unit/5 acres to 1 dwelling unit/2 acres.

The current regulation permits 1 dwelling unit per 5 acres for traditional subdivisions. However there are three cluster regulations that provide density bonuses (additional units) up to 1 dwelling unit per 2 acres as incentives for developer's willingness to protect natural and scenic resources and agricultural land.

4. Increasing the maximum allowable density in the Residential zone to 4 dwelling unit/1 acre when connected to central water and sewer.

The current regulation permits 2 dwelling units per 1 acre when connected to central water or sewer systems with a minimum lot size of 0.5 acres. This proposed change would increase the density in the Residential zone to 4 dwelling units per acre with a minimum lot size of 0.25 acre.

Summary of Citizen Proposed Alternatives

Our citizen proposed alternatives are below.

Recommendation 1. Maintain Open Space Dedication and Add In Lieu of Fee Option.

Justification: Open space dedications are a common tool throughout the country and are intended to contribute to parks, recreation, open space, and agricultural land conservation. Our own policy documents reflect a widely expressed desire to see these assets in our own County enhanced and protected. Dedications achieved through our code, land acquisition, and conservation easements are the tools we currently have available to achieve our goals.

Our current regulation is not as effective as it could be in helping the County accomplish these goals. Most communities pair an open space dedication with an optional in lieu of fee. This is done to prevent scattered open space or parks that do little to contribute to development of high quality assets within the County. With an in lieu of fee, the developer may opt to contribute money to a recreation and open space fund that the County administers. These funds may only be used for open space and parks and must be guided by a current policy document. Used together, the open space dedication and in lieu of fees can help leverage and direct resources to achieve opens space, agricultural land conservation, and recreation goals.

Recommendation for Code Improvement:

1. Modify the code to include an in lieu of fee option for open space (as exist for schools and public sites) and update the 2001 comprehensive plan to create a current Park, Recreation, and Open Space plan.

Examples form Other Communities:

- A. Boulder County, CO is well regarded for its efforts to protect open space. They use a multitude of tools including land dedications and in lieu of fees. The code requirement for dedications is 30 acres per 1,000 people. Section 7-1307 states both cash-in-lieu as well as combination of land dedication and monetary contributions are available as options.
- B. Gunnison County, CO has aggressively pursued land conservation through ballot initiatives, sales tax, land trusts, and dedications. As a rural county comparison, they require land dedication of 30% of development as well as prioritize what assets should be protected. Management options of open space include transfer to either a nonprofit or a private entity.

Recommendation 2. Maintain Visual Resource Impact Mitigation Requirements.

Justification: 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. 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 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.

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.

There are a numerous alternatives to the Planning Commission's proposed changes for simply removing the requirement. First is the need to clarifying the intent of the policy goals, what the issues are with the code, and what justifies a change to the code. If more clarity is what the development community seeks, the process ought to identify what needs to be made clearer and address those specific issues. For example, do developers need more specificity on content in the analysis or more specificity on how to achieve the guidelines? Alternatives are proposed below to address both issues.

Alternative Recommendation for Code Change:

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....”*

Examples from Other Communities:

- A. Gunnison County, CO: The development code for Gunnison County, CO includes Resource Development Standards which addresses both visual and natural resources. To assess visual impact for ridgeline development, they leave the discretion of whether to require an impact analysis or not with the Development Director. If an impact analysis is requested, it is a two tier process. First, an initial visual analysis with a map and written statement, then if necessary, followed by a more detailed visual analysis.

Recommendation 3: Maintain current Rural Residential and Recreational zone densities.

Justification: Densities have a history and have changed many time in Chaffee County depending upon economic conditions. The previous land use code and zoning regulations permitted a minimum lot size of 2 acres everywhere in the County and had been in effect for 24 years (Resolution 1990-9). Prior to that time, agricultural areas were zoned to 1 dwelling unit per 35 acres. The current densities for Rural Residential and Recreational zones are 1 dwelling unit per 5 acres. These densities were arrived at after much deliberation with the intent of creating an incentive for developers to build in a way that better protects the rural character of the County’s least populated areas.

The intent statements in the development code for these zones read:

- **Rural Residential (RUR) Section 2.2.3.A.:** These lands consist of open rangelands and agricultural lands that are the original roots for the rural character of Chaffee County. The intent of the Rural zone is to allow agricultural uses of any kind and to promote development that enhances the agrarian and rural character of the County. These regulations are developed in a general way that encourages or produces compatibility between the numerous kinds of users in this zone. Development within this zone district should maintain agricultural resources; protect historic resources and mitigate impacts to visual resources; maintain natural resources including 2 SECTION 2.4.5B – SECTION 2.4.6B ZONING 2-4 EFFECTIVE 2/15/14 (ORD. 2014-01) CHAFFEE COUNTY LAND USE CODE streams, floodplains and riparian corridors; protect wildlife habitat and corridors; protect irrigation systems; and allow for the continuance of the rural lifestyle.
- **Recreational (REC) Section 2.2.2.A.:** This zone consists of all the public and private land within the boundaries of the public domain and some other land within the county. Because of the diversity of the types and areas of land in this zone, many uses that are compatible with the public land are possible. It is the intent of these regulations to allow for a variety of uses that minimize impacts to the natural environment. These regulations are developed in a general way that encourages or produces compatibility between the numerous kinds of users in this zone. This zone district encourages the preservation of open lands that are either privately or publicly owned, managed, leased or dedicated that are used for recreation, ecological purposes (such as

wildlife habitat), or open spaces. This zone district also encourages cattle grazing, forestry, fisheries, hunting, mining, parks, recreational and picnic facilities.

To complement these densities, new zoning and subdivision regulations were created for three types of cluster subdivisions – the Statutory Exemption, the Rural Open Space Incentive (ROSI), and the Cluster Subdivision - to permit development at a density of 1 dwelling unit per 2 acre achieved through density bonuses and through provision of appropriate infrastructure.

The rural residential and recreational zones are not adjacent to municipal growth areas and therefore not priorities for incentivizing new development. Promoting high quality development in the rural areas by incentivizing the type of development we want is an effective tool. It should not be undermined by removing the benefit of a density bonus.

Alternative Recommendation for Code Change: No change is recommended.

Recommendation 4: In collaboration with municipalities, assess appropriate areas for an increase to Residential zone densities.

Justification: The intent of the Residential zone as state in the code is to promote well-designed, moderate density residential neighborhoods, located in proximity to existing transportation facilities, necessary infrastructure, and employment opportunities. Making development easier where we want growth to happen is a good policy direction. Real estate trends indicate that residents and developers are seeking land in proximity to the towns. However, simply stating that all of the Residential zone is appropriate for the highest allowable densities is likely inaccurate.

A detailed assessment is needed of the Residential zone, land suitability, land availability, identified annexation areas, and infrastructure needs to guide any changes to the code. The municipalities and County do have a Regional Planning Commission that has been inactive since 2010. Intergovernmental Agreements exist that clarify how and where growth is desired in the three mile areas surrounding the town. The Regional Planning Commission should be convened to initiate a dialogue about how to address growth areas and appropriate densities. It may be that even higher densities are an option in some areas with access to infrastructure. Planning future growth areas is a highly strategic and fiscally responsible planning policy.

Lastly, depending upon the income level targets for affordable housing, housing affordability can be supported when smaller lot sizes can be achieved but only when infrastructure already exists to reduce the costs to development. Additionally, accessibility to work centers is facilitated when housing is located where there are options for getting to work other than being dependent upon a car. Designating higher density growth areas and making development in these areas easier would be beneficial to emerging region wide goals for development of affordable housing. Thinking simply removing density requirements will create affordable housing is inaccurate.

Recommendation 5: Initiate an update to the Comprehensive Plan.

Justification: Chaffee County’s Comprehensive Plan is incredibly outdated. Most communities update their plans every 5 to 10 years depending on the rate of growth. Our plan is now 15 years old and we have sustained a relatively stable rate of population growth. The Citizen’s Roundtable Recommendations acted as a policy update to the comprehensive plan. However, even those are now 10 years old. Much has changed in our community and it is time we develop a new Comprehensive Plan, done with extensive community involvement, to clarify our shared vision for the future and to inform better decision making.

Summary: Side by Side Comparison Planning Commission to Citizen Proposal

Planning Commission Proposal	Citizen Proposal
1. Remove open space dedication requirement for all subdivisions.	A. Maintain current dedication requirement and add in lieu of fee option.
2. Remove visual analysis requirement for all developments.	B. Maintain visual resource protection standards but clarify where necessary and make the need for the visual analysis more specific.
3. Increase the permitted density for Rural Recreation and Recreational zones from 1 dwelling unit/5 acres to 1 dwelling/2 acres.	C. Maintain current allowable densities for traditional subdivisions to maintain an incentive for development patter that protects rural character.
4. Increase the maximum allowable density in the Residential zone from 2 dwelling unit/1 acre to 4 dwelling units/1 acre.	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.