



PLANNING COMMISSION WORK SESSION AGENDA

Date: October 14, 2024

RE: Land Use Code and Development Review Improvement Ideas
To: Planning Commission
Becky Frank, Town Manager
Bo Ayad, Town Clerk
Austin Flanagan, Town Attorney
From: Julie Esterl, Baseline
Ben Thurston, AICP, Baseline
Mark Sundstrom, PE, Baseline



In July of 2024, the Town Manager requested that Baseline prepare for a work session with the Planning Commission regarding ideas for Land Use Code (LUC) and development review improvements. In preparation for this work session, staff (Town Manager, Clerk, Attorney, and the Baseline team) worked to prepare the following agenda and materials for review and discussion with the Planning Commission. The agenda is organized into the following categories:

1. Proposed revisions/additions to the existing Land Use Code (LUC)
2. Proposed policies and development review process improvements

1. PROPOSED REVISIONS/ADDITIONS TO EXISTING LUC

This list of potential LUC revisions is based on issues that have come up in Baseline’s development review to date. Baseline was not asked to perform a comprehensive code audit, and therefore this is not meant to be an exhaustive list of potential amendments.

a. Accessory Dwelling Units (ADUs)

Question 1: Should the LUC be more specific about the criteria for an ADU?

Existing Code: *Sec. 12-33. - Use-specific standards.*

(e) Accessory uses and structures and temporary uses.

(1) Accessory dwelling unit.

- a. Accessory dwelling units shall only be permitted on lots greater than 5,000 square feet.*
- b. There shall be no more than one accessory dwelling unit on a lot.*
- c. An accessory dwelling unit must not contain more than 1,000 square feet of gross floor area.*
- d. No portion of a lot on which an accessory dwelling unit is located may be subdivided from or legally described differently than, the lot containing the primary residential unit, and no portion of a structure containing an accessory dwelling unit may have ownership different from the ownership of the primary dwelling unit.*
- e. There shall be one additional off-street parking space provided for the accessory dwelling unit.*



f. *Recreational vehicles may not be used as accessory dwelling units.*

Discussion: RVs are not allowed as an ADU, but additional criteria regarding required foundations and permanent utilities could also be added in order to restrict the use of RVs as ADUs without listing them as prohibited. Refer to attachment 1 - Town of Fraser Regulations on ADUs.

Question 2: Should the definition of an ADU be revised?

Existing Code: *Sec. 12-62. - Definitions.*

Accessory dwelling unit means an subordinate dwelling unit attached or detached from a primary structure, and located on the same lot or parcel, that provides basic requirements for living, sleeping, cooking, and sanitation. A manufactured home or recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as a accessory dwelling unit.

Discussion: Is it appropriate to remove the restriction on manufactured housing?

Question 3: Should the definition of an RV be revised?

Existing Code: *Sec. 12-62. – Definitions*

Recreational vehicle means a temporary structure, less than 40 feet in length, that can be towed, hauled or driven and is primarily designed as temporary housing accommodations for recreational, camping or travel use including, but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Discussion: Is it appropriate to revise the definition of an RV to allow a tiny home on wheels for the purpose of permanent housing, but not allow an RV which is intended for temporary housing?

Question 4: Should the definition of a manufactured home be revised?

Existing Code: *Sec. 12-62. – Definitions*

Manufactured home means a building, fabricated in an off-site facility for installation or assembly at the building site, transportable in one or more sections, that, in the traveling mode, is eight feet or more in width or 40 feet or more in length, or when erected is 320 or more square feet in size, and is built on a permanent chassis and designed to be used as a dwelling for one-family, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in the building.

Discussion: Is this definition in place as a reference to ADUs, or for other purposes? Are any changes desired?

Summary on ADUs: Staff would like to get feedback from the Planning Commission regarding the use of ADUs in the Town. Currently they are allowed as an accessory use in the R-1, R-2 and MX-1 zone districts. However, the type of structure allowed is restricted to a narrow definition.



Is this an intended outcome, or are revisions desired in order to make the establishment of an ADU more feasible? Refer to attachment 2 - GMF PC Staff Memo on ADUs dated September 4, 2024 for additional context regarding a specific ADU application.

b. Drainage and Stormwater

Question: Should the Code be more specific about when drainage plans, erosions control plans and stormwater management plans are required? In addition, should the Code (or a policy) outline the requirements for these types of documents?

Existing Code: *Sec. 12-46. Sensitive lands, stormwater, and drainage.*

- a) *Applicability. This section applies to all subdivision and site plan approvals unless staff determines that review at the site plan stage is not necessary because the application complies with avoidance and mitigation measures already applicable to the property due to prior development approvals.*
- b) *Administrative adjustments. To better comply with the provisions of this section while allowing for parcels to remain buildable, staff may adjust the minimum lot size or lot width dimensions by up to 25 percent upon a determination that doing so would result in minimal disturbance to sensitive lands.*
- c) *General requirement. Development of lands that are subject to periodic inundation, subsidence of the earth's surface, high water table, or have difficult topography, unstable soils, wetlands, or other natural or human-created hazards to life or property shall be avoided to the maximum extent practicable.*
- d) *Wetlands.*
 - (1) *When there is a substantial likelihood of a wetland existing on a property proposed for development, staff shall require, at the applicant's expense, a qualified consultant to study the property to determine the existence of a wetland and delineate the boundaries of the wetland on the applicable property.*
 - (2) *No land-disturbing activity, mowing, or temporary or permanent structure shall be allowed within 25 feet of a delineated wetland.*
 - (3) *A wetland buffer area extending 25 feet from a delineated wetland is required on all delineated wetlands.*
 - (4) *Draining of a delineated wetland is prohibited.*
- e) *Stormwater.*
 - (1) *Stormwater runoff from a construction site directed to a wetland shall be substantially free of silt and debris and shall be discharged at a rate that will not disturb vegetation or increase turbidity.*
 - (2) *Increases in runoff from the 10-year and 100-year frequency storms due to development, redevelopment, or change of use activity on the site shall be detained within the development and released at a rate no greater than existed prior to the development. How is this requirement being implemented? Is this required for all projects, or projects that reach a certain disturbance or imperviousness threshold?*



- (3) No fences or structures shall be constructed across an open drainage channel or easement that will reduce or restrict the flow of water unless part of an approved retention or detention facility or a revocable permit has been approved to allow the fence or structure. If a revocable permit is required, conditions attached to that permit may require mitigation of impacts related to the crossing.*
 - (4) The town may require any water course or stormwater management facility to be located within a dedicated drainage easement that provides sufficient width for maintenance.*
- f) Drainage.*
- (1) A stormwater management plan shall accompany an application for site plans involving an increase in impervious surface area except for accessory structures.*
 - (2) A stormwater management plan shall be prepared to address the impact a development will have on existing drainage facilities and to provide a basis for designing the storm drainage system within the development.*
- g) Grading. Any land-disturbing activity that requires the grading of slopes, except the construction of public trails, shall meet the following standards:*
- (1) All unarmored and structurally unretained graded slopes and fills shall be limited to a 3:1 grade (three feet horizontal to one foot vertical).*
 - (2) Any graded or fill slope which exceeds a 3:1 grade shall be required to use universally accepted armoring techniques, or retaining structures as approved by the town engineer or, at the developers expense, certification by a licensed professional engineer stating that the slopes can be stabilized by plantings, vegetative seeding, mulching. In the instance of slope cuts that involve rock formations it may be required to be certified by a registered geologist.*
 - (3) Any graded or fill slope which exceeds a 3:1 grade shall be terraced at 20-foot vertical intervals. Slopes graded between 2:1 and 3:1 shall have a minimum bench width of five feet. Slopes steeper than 2:1 shall have a minimum bench width of five feet and may be required to have wider benches upon town engineer determination.*
 - (4) Any graded slope which exceeds a 3:1 grade shall be grade staked before grading process begins.*
 - (5) Maximum slopes proposed within a minimum of 20 feet of an established property line or any required setback adjacent to a property line shall be 3:1 tying into existing grades along perimeter or property line of the site or retained via retaining walls or other acceptable measures.*
- h) Wildfires. Unless waived by staff based on the applicant's demonstration of adequate alternative wildfire mitigation, the following standards are required for all new development and substantial improvements to existing development that require a building permit.*



- (1) Vegetation and tree canopies shall maintain a minimum clearance of ten feet from any structure.*
 - (2) New development in areas designed as a risk of seven and higher in the wildland urban interface risk map as amended by the CO-WRAP Colorado Wildfire Risk Assessment Portal shall meet the applicable standards of the most recent version of the International Wildland-Urban Interface Code unless excepted by staff upon a showing of reasonable alternative fire mitigation.*
 - (3) The construction of new decks and fencing shall be of fire-resistant materials.*
- i) Floodplains.*
- (1) Applicability. All new development and substantial improvements to existing development in a special flood hazard area as delineated by the most recent report available from the Federal Emergency Management Agency (referred to as the "floodplain" hereafter) shall comply with the standards in this section. If a building or structure lies partly within the floodplain, these standards apply to the entire building or structure lying within any portion of the floodplain.*
 - (2) Referral agency. The town shall forward all applications subject to these floodplain standards to the regional floodplain administration at the Pikes Peak Regional Building Department for review with applicable federal, state, and local floodplain regulations.*
 - (3) Standards.*
 - a. All structures shall be anchored to prevent flotation, collapse, or lateral movement of the structure.*
 - b. All structures shall be constructed with materials and utility equipment resistant to flood damage below the floodplain grade.*
 - c. All structures shall be constructed to minimize flood damage.*
 - d. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at or above the floodplain grade or designed so as to prevent water from entering or accumulating within the components below the floodplain grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the floodplain grade.*
 - e. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.*
 - f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.*
 - g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.*



- h. Materials which are flammable, hazardous, toxic, or explosive, or that in times of flooding could be harmful to human, animal, or plant life may not be produced, stored, or processed in a floodplain.*

Discussion: The vagueness of the existing Code has led to many discussions and disagreements on what is expected of applicants. GMF does not have its own drainage and stormwater criteria, so is it the intent to follow El Paso County regulations? Staff would like to apply the LUC uniformly. Some ideas include removing the language exempting accessory structures, and adding grading requirements thresholds based on the amount of land to be disturbed. Staff believes the intent is to reduce the burden on the applicant without creating consequences for the Town. Baseline's Mark Sundstrom has additional comments and suggestions.

Comments from Mark Sundstrom, PE:

1. Unless the town possesses its own **MS4 permit**, our understanding is that towns must adhere to the stormwater discharge regulations required by the county unless they have been granted some form of exemption or have their own approved plans that meet or exceed the county standards. Does the town possess and implement its own MS4 permit?
2. Recommend adding reference to the El Paso County Drainage Criteria Manual.
3. County requires an Erosion and Stormwater Quality Control Permit (ESQCP) for construction activities that result in land disturbance of greater than or equal to 1 acre or that is less than one acre, but is part of a larger common plan of development or sale that would disturb 1 acre or more, unless the activity meets exclusion criteria in Section 5.6.3. Any project involving land disturbing activity of less than 1 acre but which disturbs more than 500 cubic yards of material (stockpiling, cut and/or fill) may be considered an applicable construction activity at the ECM Administrator's discretion when potential pollutants, site topography, hydraulics or proximity to a surface water body are of significant concern.
4. When is a GECP stamped by a professional engineer required?
5. When is a drainage report or letter required?
6. Recommend creating a decision matrix that can be referenced for what permits are needed for a project.
7. Section 12-46(e)(2): This section feels very restrictive on small projects (i.e. requires stormwater detention) but not restrictive enough for large projects (i.e. no requirements listed for a grading permit, drainage report, etc.)
8. Proposed Code revisions:

Drainage.

(3) A stormwater management plan shall accompany an application for site plans involving an increase in impervious surface area except for accessory structures.

MS Comment: Why are accessory structures exempt? Recommend adding a disturbance or impervious square footage threshold. What are the requirements of the stormwater management plan (is it stamped? Includes



phased BMPs? Includes SWMP report? Includes drainage letter/report?)
Suggest a decision matrix to determine what is required based on certain conditions.

*Grading. Any land-disturbing activity that requires the **grading of slopes**, except the construction of public trails, shall meet the following standards:*

MS Comment: Recommend deleting statement “that requires the grading of slopes”. Why are public trails exempt from these requirements?

c. Application and Consultant Fees, Cost share/pass-through fee issues, 2025 fee schedule

Question: Since consultant pass-through fees are difficult to collect, should the land use application fees be increased, or should the Town adopt a Cost Reimbursement Agreement (CRA)?

Existing Code: *Sec. 12-52. - Common procedures.*

(c) Application submittal and fees.

(1) The application shall be submitted to the town on a form established by the town. The applicant bears the burden of demonstrating compliance with application requirements.

(2) Staff may waive certain submittal requirements in order to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. Staff may waive such requirements upon finding that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in their opinion, support such waiver.

(3) Application fees shall be paid at the time of submittal according to the type of application on the development review fee schedule. The fee schedule shall be established by resolution of the board of trustees and reviewed periodically.

(4) In the event staff determines that it is necessary to utilize the services of a consultant not on staff, staff may impose additional fees associated with such outside consultant. Staff shall inform the applicant of the necessity to utilize the services of a consultant and the applicant may choose whether or not to proceed with the application.

Discussion: In particular, the Minor Site Plan fee of \$125 seems low. Although the application does indicate the applicant may be billed for consultant fees, would a CRA make this clearer and more binding? The requirement for a CRA could be added to the LUC.

Most communities historically have not required development to pay its own way. There is a loss on the planning fees that is offset by the building permit fees. A possible solution would be to collect additional fees for additional rounds of review.



A deposit system could be introduced, but this would mean keeping each deposit in a separate account which requires staff time and effort to maintain.

2. PROPOSED POLICIES AND DEVELOPMENT REVIEW PROCESS IMPROVEMENTS

a. Referrals

Question: Should there be a policy about when, and to whom, a referral is required? The existing LUC language is very open to interpretation.

Discussion: It would be helpful to staff to have a list with the contact info for the local service providers, CDOT, and PPRBD, as well as a general understanding of when to send a referral to internal and external agencies. Another option is to put the burden on the applicant to contact these agencies and ask if they have comments.

Existing Code: *Sec. 12-52. - Common procedures.*

(g) Staff review and decision.

(1) Department and agency referral review.

a. Staff shall distribute the complete application to the appropriate staff and other internal and external review agencies.

b. Such review agencies shall provide comments to staff within ten days following the distribution.

(2) Staff shall submit recommendations and comments to the applicant.

(3) If an application is subject to staff review and recommendation per table 5-1, summary table of review procedures, staff shall prepare a written staff report that summarizes the proposal, findings, and recommendations.

(4) Staff shall submit a copy of the staff report to the applicant and the applicable decision-making body, and shall make the staff report and related materials available for public review at least three calendar days prior to the hearing at which the application is scheduled to be heard.

b. Minor Site Plans

Question: Do signs, fences and retaining walls always need review? What about the replacement of a fence? How are minor site plans to be reviewed, and against what regulations? What type of basemap is required – scaled hand drawn map, ILC, land survey plat, or improvement survey plat? Should there be an intermediate level of site plan review between major and minor?

Discussion: There is a wide variety of site plans that are submitted. Establishing a policy regarding what is required for a fence vs a garage addition, for example, would be helpful. Refer to attachment 3 - GMF Site Plan Application Checklist 2023.

Existing Code: *Sec. 12-53. - Development permit procedures.*

(a) Applicability. Development review is required prior to the issuance of a building permit and construction of physical improvements. Development review is required for all development except interior alterations or improvements that do not increase parking requirements or alter exterior portions of a building.

(b) General Requirements...



(c) Minor site plan.

(1) Applicability. A minor site plan is required for any of the following activities:

- a. Construction of accessory structures of less than 200 square feet;*
- b. Construction of a sign, fence, or retaining wall;*
- c. Construction of or substantial reconstruction of a deck;*
- d. A change in use that involves or requires site improvements;*
- e. Any expansion, alteration, or modification of a lawful nonconforming site feature or building;*
- f. Expansions, alterations, or modifications that increase the gross floor area of an existing structure by no more than 25 percent; and*
- g. The alteration of any vehicular parking area.*

c. Application checklist revisions

Question: Should the site plan application checklist be updated to assist applicants and staff to have a better understanding of what is required?

Discussion: Baseline has prepared draft revisions to the existing checklist. Refer to the attachment 4 - Site Plan Checklist - Tracked Changes, and attachment 5 - Site Plan Checklist - Revised Draft.

d. Proof of Ownership

Question: Should assessor records satisfy proof of ownership? If a deed is difficult for applicants to supply, should we request they obtain an O&E report from a title company?

Discussion: What should the Town require for proof of ownership? In other towns, it is common to require either a deed or title commitment policy to verify ownership. It is also necessary to ensure the owners are aware of applications being processed, particularly if the review fees will be forwarded to them.

Question: Should the land use application require a verified digital signature or physical signature?

Discussion: Currently the applicant and owner can type in their names, which is not necessarily binding.

e. Website information

Discussion: Baseline has prepared a few suggested updates to the Planning and Zoning web page. Refer to attachments "6 Planning Website Update Suggestions", "7 Planning Website FAQ - Tracked Changes", and "8 Planning Website FAQ - Revised Draft"

RECAP ACTION ITEMS

- 1. Provide direction on each of the suggested changes**
- 2. Provide direction on priorities**
- 3. Identify schedule for follow up meeting(s), if desired**



Attachments:

- 1 Town of Fraser Regulations on ADUs
- 2 GMF PC Staff Memo on ADUs
- 3 GMF Site Plan Application Checklist 2023
- 4 Site Plan Checklist - Tracked Changes
- 5 Site Plan Checklist - Revised Draft
- 6 Planning Website Update Suggestions
- 7 Planning Website FAQ - Tracked Changes
- 8 Planning Website FAQ - Revised Draft