



June 30, 2016

ROUGH DRAFT

Divide Planning Committee
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Teller County Planning Dept.
800 Research Dr.
P. O. Box 1886
Woodland Park, CO 80866

Re: Amendments to the Teller County Land Use Regulations

Dear Mr. Williams:

Per requested agency review for the Land Use Regulations (LUR) Text Amendment dated May 31, 2016; the Divide Planning Committee (DPC) met in public meeting, with the applicant present and participating, to discuss this topic and how this application relates to the Divide Regional Plan (DRP) and as residents of Teller County how we feel regarding changing the Land Use Regulations which impact the whole county. We respectfully submit the following discussion points.

Based on where the Land Use Regulations sit with respect to other county planning documents and with the Divide Regional Plan being advisory (not regulatory), there is little in the Divide Regional Plan that relates to the proposed changes to the regulatory planning document; the TC LUR. But the DRP does include the following:

I. VISION

This Plan aims to balance the needs of humans, the environment, wildlife, and economic development while improving the character and infrastructure of the area. (DRP page 1; 2nd paragraph, 2nd sentence)

The proposed text amendment's intent is to allow for a less onerous course of relief for properties with uses or structures that precede the current TCLUR or when Teller County became a Zoned County and to allow the owners of those properties an avenue to repair, alter, replace or expand those uses or structures as long as those changes don't create any additional intensity of use which we consider helping to improve the character and infrastructure of the area as this process should enable some property owners to make improvements which they otherwise might not have made.

III. GOALS AND POLICIES

A. WATER: In the Divide Region we are concerned about water quantity and quality, which future growth might adversely affect. (DRP page 3)

While this proposed text amendment allows for minor expansion it has also built in checks and balances via a the proposed Administrative Review process so that any additional impacts to infrastructure will trigger a full special review use permit review and therefore there should be no additional impacts to water quality or quantity.

B. AMOUNT OF GROWTH: The population of the Divide Region should no more than double in the next 20 years. (DRP page 3)

*This proposed text amendment would allow for minor expansion which is not **growth**, as defined on page 2 in the DRP Section II.*

C. PLANNING AREAS: The Divide Region consists of 3 distinct planning areas: the Town center includes both businesses and residences, the Rural Residential area includes existing lots and parcels smaller than 35 acres, and Rural Lands are large tracts making up the rest of the Region. (DRP page 3)

This proposed text amendment would affect all planning areas within the Divide Planning Region that contain a legal non-conforming use or a legal non-conforming structure.

C1.08 Establish the carrying capacity of the land. (DRP page 4)

The proposed Existing Conditions Plan appears to be designed to identify the existing carrying capacity of the land and establish limits on that carry capacity.

F. ADEQUATE INFRASTRUCTURE: Any future growth should be supported by adequate infrastructure. (DRP page 7)

The proposed text amendment would allow for minor expansions of legal non-conforming uses or legal non-conforming structures through an administrative review process to ensure the availability and adequacy of infrastructure.

If this amendment is approved, we would hope and request that Planning staff consider, while conducting an administrative review for such parcels in the Divide Region or anywhere in the county topics such as *Carrying Capacity Of Land* and *Cumulative Impacts* as defined in the DRP. Minor expansion could potentially be cause for concern for the surrounding area and neighborhood, particularly on small acreage parcels.

Considering the scale of an operation might be appropriate during an administrative review by county staff. Impacts for small parcels with neighboring small parcels could have potential impacts on neighbors that might be less significant for large acreage parcels and large neighboring parcels. The scale of potential impacts changes with the neighborhood surrounding the the applicant's parcel. The scale of an operation might be cause to elevate an application to a full SUP application – discretion of the Planning staff.

While we would prefer the whole topic of *legal, non-conforming use or structures* would go

away as not being necessary, because all such parcel owners would undertake the necessary steps to become conforming, we understand it is not feasible to force existing non-conforming parcels to change to conforming parcels due to fiscal and time concerns, plus the county probably does not know which parcels fall into the non-conforming category until a land use change for a parcel is submitted. This committee believes use of the Administrative Review process is the best option for modification and minimal expansion on such parcels. As long as the Planning Staff can be trusted to consider the neighborhood and neighbors of the property in question.

Concerns and Suggestions

The DPC offers possible concerns and suggestions to the county and the applicant for consideration.

Concerns

- How often can a new Existing Condition Plan (ECP) be submitted? Should there a limit? Our understanding is there can be only one baseline established for a parcel, but that might not be what is intended. Does the ECP last forever to establish what 20% change entails or can new ECPs be submitted every few years? If the intent is that there is one and only one ECP per parcel the regulations should state that. What if the parcel changes ownership? Does ECP and an approved minor expansion permit stay with the land, like other Use Permits?
- Prior to the Planning Staff agreeing to the ECP, stated at the end of the proposed new §1.13.E.1, staff should be required to physically inspect, take measurements of at least existing buildings and take appropriate photographs due to the importance establishing the baseline. Please consider adding such a requirement to the proposed amendment.
- Typo - Second paragraph under new §1.13.E.1, third line middle of proposed text “...activity level and in generally described...”. Shouldn’t that read “...activity level and **is** generally described...”?
- In that same area of the second paragraph under new §1.13.E.1, when the Teller County Planning Director (is there such a position?) is checking on the measures that define intensity of use, that person should be required to consider potential impact on neighbors and neighborhood of the property in question. Things to consider are neighboring lot size and usage (residents on small lots). Administrative review means no public notice and input, so the Planning Dept. needs to speak for the neighbors about a minor expansion. Consider how neighbors would feel about the minor expansion if they knew that such expansion were to happen.
- Typo - In the proposed *Existing Conditions Plan Submittal Requirements* (on pg 3 of proposed text) at the end of the second sentence which states: “... obtaining an SUP and extinguishing the CUP” should say “... obtaining **a** SUP and extinguishing the CUP”.
- The proposed *Existing Conditions Plan (ECP) Checklist* (on pg 3 of proposed text) is new to the LUR. Where is the applicant proposing this be included? As part of new

section 1.13.F? We are confused as to where this checklist is intended to reside in the LUR.

- In the proposed *Existing Conditions Plan Submittal Requirements* (on pg 4 of proposed text) sub-paragraph (3) (d) should be removed and subsequent sub-paragraphs (e) through (i) be demoted one letter value to account for the removal.
- The definition of Intensity of Use being added to Chapter 12 uses the phrase “...including, but not limited to,...”. In recent land use applications this phrase has been frowned upon by the county. Are we setting a double standard here? Leaving the listed uses in the proposed definition and removing that phrase and then adding *other uses, subject to the discretion of Planning Staff* might alleviate this.

Suggestions

In the future proposed changes to the LUR should be formatted using From and To presentation to facilitate comparing current and proposed new content.

In closing, the DPC recommends the Teller County Planning Commission **approve with condition** this application with the conditions being that our concerns and suggestions be considered.

Respectfully Yours,
The Divide Planning Committee:

Mick Bates

Diana Hurst

Jim Irving
Chair

Bryan Johnson

Lisa Lee

Jeff Schlumpf

Allen Schultz

Candy Shoemaker

Zug Standing Bear

Joanne Thies

Tom Worley
Vice-Chair