



Planning Commission Agenda

Thursday, June 16, 2022

Regular Meeting – 6:00 P.M.

Frederick Town Hall

401 Locust St.

Built On What Matters

In order to promote social distancing and to protect the health and safety of our Commission members, staff, and community this meeting will be hybrid and conducted via Zoom and in person.

Interested parties are encouraged to access the meeting via Zoom or in person at Town Hall.

The meeting information is as follows:

Join Zoom Meeting

<https://zoom.us/j/94063773463?pwd=aXg1M1d3V0VTkytRWnpPWHc3S2VDZz09>

Meeting ID: 940 6377 3463

Passcode: 24689

One tap mobile

+16699006833,,94063773463# US (San Jose)

+12532158782,,94063773463# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 940 6377 3463

Find your local number: <https://zoom.us/j/94063773463>

Please contact Town Clerk Meghan Martinez for questions regarding the meeting. 720-382-5500 or

mmartinez@frederickco.gov

Call to Order – Roll Call

Additions to the Agenda

Action Agenda

A. Approval of minutes from the March 17, 2022 meeting

Discussion Item

- A. Land Use Code Update Strategic Assessment – Planning Manager Ali van Deutekom

Other Business

Upcoming Meeting – July 7, 2022



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MINUTES
TOWN OF FREDERICK
PLANNING COMMISSION
MEETING CONDUCTED IN PERSON AND VIA ZOOM
MARCH 17, 2022
6:00 PM

CALL TO ORDER: At 6:02 p.m. Chairperson Moe called the meeting to order and requested roll call.

ROLL CALL:

- Present: Chairperson Moe, Vice Chair teVelde, Commissioner Stark, and Commissioner Scott.
 - Commissioner Conroy was not present
- Staff: Planning Manager Ali van Deutekom, Planner Maureen Welsh, Town Manager Bryan Osler, Assistant Town Manager Ryan Johnson, Deputy Town Clerk Taylor Kittilson, and Land Use Attorney Todd Messenger.

APPROVAL OF AGENDA: There were no changes to the agenda as presented.

APPROVAL OF FEBRUARY 17, 2022 MINUTES: Motion by Commissioner Stark and seconded by Vice Chair teVelde to approve the February 17, 2022 Minutes. Upon roll call vote, motion passed unanimously.

CONSIDERATION OF 25/52 EAST SUBAREA PLAN:

Assistant Town Manager Ryan Johnson presented the proposed subarea plan.

Applicant Robert Kain (188 W Randolph Street, Suite 200, Chicago, IL 60601) addressed the commission with a short presentation.

At 7:33 Chairperson Moe opened the public hearing.

Bruce Nickerson (PO Box 741 344 Arvada, CO 80006) addressed the commission to state that he enjoyed the presentation, and thanked staff for their time.

At 7:34 Chairperson Moe closed the public hearing.

Motion by Commissioner Stark and seconded by Vice Chair teVelde to approve PCR-2022-07 A, a Resolution of the Planning Commission Recommending Approval of the 25/52 East Subarea Plan. Upon roll call vote, motion passed unanimously.

CONSIDERATION OF LAND USE CODE AMENDMENTS TO ARTICLES 1 & 3 IN REFERENCE TO CEMETERIES:

Planning Manager Ali van Deutekom presented the proposed amendments.

Built on What Matters.

Motion by Commissioner Stark and seconded by Vice Chair teVelde to approve PCR-2022-08 A, a Resolution of the Planning Commission Recommending Approval of Amendments to the Town of Frederick Land Use Code Articles 1 and 3 in reference to cemeteries. Upon roll call vote, motion passed unanimously.

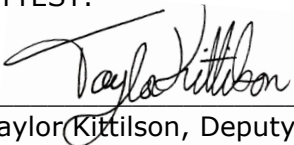
OTHER BUSINESS:

There being no further business of the Planning Commission, Chairperson Moe adjourned the meeting at 7:39 PM.

Approved by the Planning Commission:

Tracy Moe, Chairperson

ATTEST:



Taylor Kittilson, Deputy Town Clerk



TOWN OF FREDERICK

PLANNING COMMISSION

Tracy Moe, Chairman

Alan Blair, Alternate Commissioner
William Mahoney, Alternate Commissioner
Dennis Stark, Commissioner

Kristin Conroy, Commissioner
Nathan Scott, Commissioner
Vacant

Land Use Code Update Strategic Assessment

Agenda Date: June 16, 2022

Attachments: A. Land Use Code Update Framework report

Submitted by: Ali van Deutekom
Planning Manager

Summary Statement:

The Frederick Land Use Code has been assessed by the Town's land use attorney, Todd Messenger. This is a discussion of his findings.

Detail of Issue/Request:

In the summer of 2021, the Board of Trustees adopted a long-term Strategic Plan for the Town of Frederick. This plan is broken down into areas of concentration. One of the concentrations is; Community and Economic Vitality. Under the umbrella of Community and Economic Vitality is; Complete an update to the Zoning Code. The Town's land use attorney, Todd Messenger, has created the strategic assessment and staff has included the assessment as an attachment.

Legal Comments:

The Town's Attorney, Jason Meyers, has also reviewed the assessment.

Alternatives/Options:

At this time, staff is providing an update on the process. No decision is needed.

Financial Considerations:

This Board priority item was included in the 2022 budget for \$150,000.00

Town of Frederick Land Use Code Update



UPDATE FRAMEWORK

Board of Trustees Study Session

| May 17, 2022



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EXECUTIVE SUMMARY

Context

The Town of Frederick is experiencing stress that is expected in communities that are undergoing rapid growth and change. Some Town residents feel a sense of uneasiness that the Town could be transformed from a place that is unique (and desirable because of that uniqueness) into a place that is not that different from any other community on the outskirts of the Denver metropolitan area. Other Town residents are concerned that an approach to new development that is too cautious or restrictive may result in investments in non-residential uses and amenities leapfrogging past Frederick, which could have long-term impacts on economic development.

Overall Strategic Assessment

The Town's current Land Use Code ("Code") has reached a stage of complexity and obsolescence that justifies its complete replacement. That said, there are some components of the Code that could be re-used, either in their current form or in concept. As the Town drafts a replacement Code, it should take into account those elements of the current Code that have served the Town well, and consider their incorporation into the new Code.

Key Recommendations

This Update Framework suggests that the Code:

1. Address all forms of development so that applications are processed in a timely, efficient, and fair manner—ensuring that landowners are empowered to creatively meet markets, solve problems, and optimize the use of their land.
2. Use the lens of "community character" to evaluate current standards and proposed new ones. Specifically, the physical form of development involves a balance among areas used for buildings and structures, pavement, and landscaping or natural features. The impact of development standards on that balance, that is, on *community character*, should be well understood as those standards are considered for inclusion in the new Code.
3. Completely rework the land uses that are set out in the current Table 3-1 (the matrix that shows the land uses that are allowed in each zoning district) so that each use is a principal land use that is defined broadly enough to include a full range of activities with comparable impacts, yet narrow enough to avoid overlaps among listed land uses.
4. Coordinate the land use table and the parking table so that each row of the land use table has a corresponding row in the parking table.
5. Create new zoning districts and update current zoning districts to better reflect the Town's development priorities and to implement the 25/52 East Subarea Plan.
6. Create established neighborhood zoning districts that allow for the expansion or modification of existing homes through the application of flexible administrative standards that encourage reasonable, context-sensitive improvements.
7. Use maximum density and minimum open space requirements, combined with a range of different permissible lot sizes and housing types, to reduce or eliminate reliance on Planned Unit Development zoning for new residential development.
8. Use a durable organizational structure that facilitates adaptation of the Code over time. That structure should compartmentalize preliminary text, substantive requirements, nonconformities, review procedures, enforcement, and measurements, acronyms, and definitions into separate and sequential Articles.

PREFACE

This Update Framework helps to build a bridge between the Town of Frederick's existing and emerging plans and what will become a proposed new Land Use Code ("Code"). It sets out proposed strategic approaches and priorities for reform of the Code based on the Town's planning objectives and perspectives with regard to the appropriate nature and scope of the Town's role in regulating the use and development of land. This document is built upon input from policy makers, community residents, landowners, and developers, and Town Staff, along with observations of and experiences with land use approval proceedings, a review of the current Code and the Town's planning documents, and the extensive experience of the author in planning, plan implementation, and land use law in Colorado and other states.

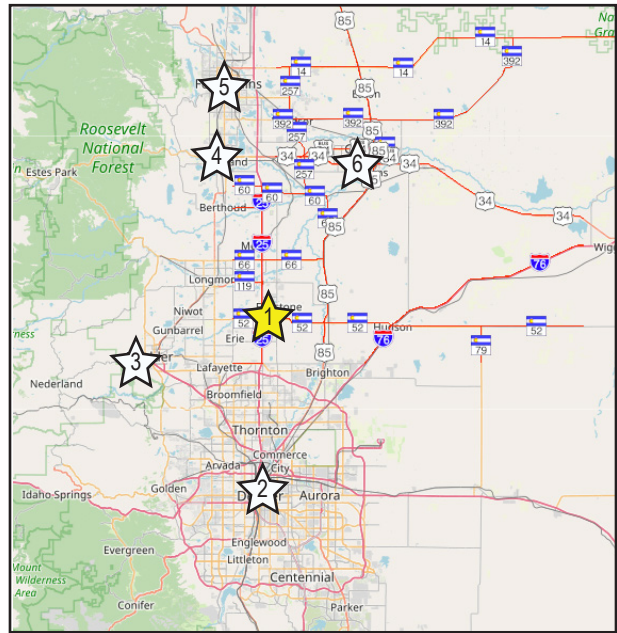
While all code update and reform projects are dynamic, that is, they respond to new opportunities, challenges, information, and perspectives as they come up, this document gives focus and stability to the Code update project by providing both a starting point and a strategic direction for the policy and technical discussions and detailed drafting efforts that will follow.

Experience shows that there are certain words and phrases that are commonly used in land use regulation, but are interpreted very different ways by different people. For example, to some, the "character" of the community may principally have to do with its physical design, or with the physical design of a certain area (e.g., downtown), whereas to others, the "character" of the community may have more to do with social networks than physical design. To avoid unnecessary confusion, this Update Framework also suggests an initial shared vocabulary that avoids unnecessary misunderstandings and creates a framework for policy development.

FREDERICK IN CONTEXT

Regional Context

The Town occupies an area of just under 16 square miles in the vicinity of the crossroads of Interstate 25 and Highway 52—north of the Denver metro area, south of the Fort Collins-Loveland metro area, and southwest of the City of Greeley (see Map 1, below). The Town is close to Longmont, Boulder, Dacono, Fort Lupton, Firestone, and Erie. The Town's central location allows for easy access to shopping, dining, education hubs, employment, and recreational opportunities, many of which are located in other jurisdictions.



Map 1: Regional Context. Frederick (1) is central to Denver (2), Boulder (3), Loveland (4), Fort Collins (5), and Greeley (6).

Sociodemographics and the Pace of Growth

In the 2010s, subdivisions of single-family detached homes attracted a lot of attention from home buyers, home builders, and developers. That fueled explosive growth in single-family detached residential subdivisions in the latter part of the decade—growth that continues today. In fact, the Town's growth outpaced projections that the Town relied upon in its most recent Compre-

hensive Plan. Today, it is estimated that the Town is among the fastest-growing communities in the State of Colorado.

During the 2016 Comprehensive Plan (“2016 Plan”) update, the Town’s estimated population was 10,935 people. Demographers at the time projected a population increase of about 18 percent (2,000 people) during the five-year period between 2015 and 2020. Actual growth was approximately 33 percent (the official 2020 Census count was 14,513 people). Population growth in the single year between 2020 and 2021 is estimated at 5.5 percent (802 people). Based on 2021 estimates, the Town is home to approximately 5,281 households, the residents of which account for roughly 40 percent of the population of the Carbon Valley.

It is an old saw in marketing that “birds of a feather flock together.” In general, Frederick is a Town comprised of families with children, above-median incomes, and high levels of education. According to the most recently available data (mostly from 2019):

- 93.4 percent of the Town’s housing stock is owner-occupied.
- 73.4 percent of Town residents have attended college, and 11.2 percent of Town residents earned advanced degrees.
- The average number of people per household is 3.11.
- The median household income is \$105,827.
- The median value of a home is \$363,200.
- The poverty rate is 1.8 percent.
- The Town is home to 841 businesses.

A full [Community Profile](#) report is available on the Town’s web site.

Predictable, Yet Difficult Growing Pains

It appears that in recent years, residential growth in Town outpaced nonresidential growth, straining resources and generating increased pressure on the Town Board to find a fiscally responsible way to deliver lifestyle amenities, local goods and services, and economic / employment opportunities for the Town’s residents. This pressure is based on an inherent understanding that the Town, as a regulator and a provider of municipal services and infrastructure, plays an important role in the private real estate market.

The Code is a key part of how the Town participates in the market. Experience shows time and again that a code that uses the power and direction of the private market to deliver community benefits is more effective than a code that either resists the market (e.g., development moratoria, overly burdensome zoning provisions, or restrictive rate-of-growth programs) or fails to recognize it (e.g., failure to leverage private investments to deliver public benefits at all).

Not surprisingly, growth pressures tend to create tensions. Some are opposed to further growth. Others embrace it. In the middle are questions and concerns about the availability and allocation of public resources (e.g., water supply, public services, and infrastructure) and the impacts of land use decision-making on community character, lifestyle amenities, economic opportunities, and the function of the community. An effective Code will reflect the policy priorities of the community with regard to these questions and concerns.

In this respect, history shows that the Town has done well using the power of the single-family residential market to deliver community benefits in the areas of connectivity and recreational amenities. Yet at present, the range of community ben-

efits and amenities sought has expanded, and the Code's relationship to emerging market opportunities is not well defined.

Among priority issues the Town faces in 2022 are:

- The need for balancing synergistic land uses, including primary employment, retail, restaurant, recreation, service, medical, entertainment, and diversified housing (price point, format, amenity mix, and for-sale / for-rent), as balanced land uses improve and maintain quality of life, economic opportunity, and the fiscal health of Town government, and reduce risks associated with economic downturns and other crisis situations.
- The need for a comprehensive approach and direction with respect to long-term stewardship of the Town's water resources and investments in water rights and infrastructure, as water is an essential resource for both current residents and future development.

PLANNING FRAMEWORK

The Comprehensive Plan

The 2016 Plan is the current version of the Town's Comprehensive Plan.¹ The intent of the 2016 Plan is to set out a vision for the growth, development, and redevelopment of the Town. The 2016 Plan has a ten year horizon; however, it is evident that the 2016 Plan relied upon projections that underestimated the growth and change in the Town and the region, and Town priorities have changed since its adoption. Moreover, the 2016 Plan suggested "a systematic review" of the plan, resulting in updates and amendments, "every 3 to 5 years."²

To that end, the Town Board of Trustees ("Town Board") has budgeted for a comprehensive re-

evaluation and update to the 2016 Plan, starting in 2022, in order to realign the Town's land use policies with current community perspectives and preferences. The Town Board has also taken steps to reorient plan-related decision making to address emerging priorities above dated ones.

While the 2016 Plan is out-of-date in some respects, the vision of the plan, expressed from the perspective of a person in the year 2036 looking back over the past two decades,³ likely has continuing support in the community and among policymakers. The Code update will, of necessity, test the 2016 Plan's vision against current data, perspectives, and priorities, and as such may help establish the groundwork for the vision expressed in the updated Comprehensive Plan.

The 25/52 East Subarea Plan

In 2021, the Town initiated its first "sub-area plan," for the area at the Northeast quadrant of Interstate 25 and Highway 52. The 25/52 East Subarea Plan carries forward a geographically specific part of the 2016 Plan's vision, in which development of the northeast quadrant of the I-25 / Highway 52 interchange was described as follows:

In additional (sic) to hosting national retailers, the interchange area has emerged as a thriving business park that supplies regional employment opportunities. To the north, the eastern side of I-25 has developed into highly successful motor row. In addition, mixed-use residential and commercial developments at the interchange, as well as at State Highway 52 and Colorado Boulevard, supply residents with everyday goods and services.

In a nutshell, the 25/52 East Subarea Plan anticipates that the land closest to I-25 and Highway 52

¹ C.R.S. § 31-23-206 imposes a duty on the Planning Commission to develop a master plan (a/k/a Comprehensive Plan).

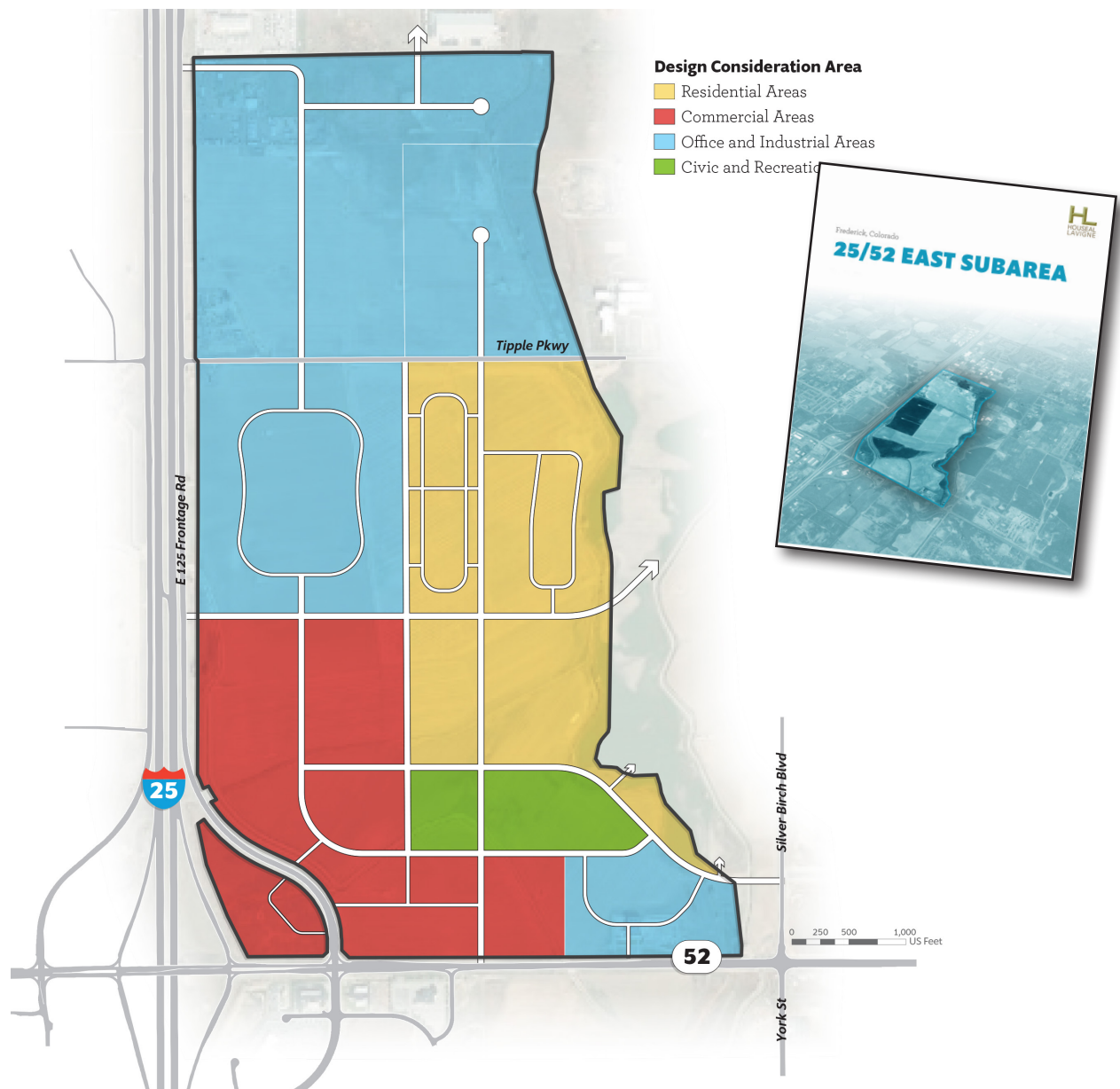
² 2016 Plan, Ch. 11, p. 95.

³ 2016 Plan, Ch. 4, pp. 34-35.

will be developed as a mixed use “place” that includes retail, restaurant, personal service, and entertainment uses, as well as (potentially) office and hospitality uses. These uses are anticipated to border on (or be integrated with) outdoor recreation, cultural, and leisure uses to the northeast. Those uses are anticipated to transition to multifamily, townhome, and other relatively dense housing forms further to the northeast. The western parts

of the planning area and the areas north of Tipple Parkway are anticipated to build out principally as uses that provide for primary employment (light industrial, office, medical office, and research and development). See Map 2.

The Planning Commission adopted the Subarea Plan on March 17, 2022. The Board of Trustees ratified the Subarea Plan on March 22, 2022.



Map 2: 25/52 East Subarea Plan Land Use Map.

LEGAL FRAMEWORK

The Difference Between Plans and Codes

In general, plans are advisory documents that express the Town's visions and policies. Codes are regulatory documents that set out specific requirements as to the use and development of land that have the force of law. That is why there is a big difference between the strategic level of detail of a plan document (e.g., a comprehensive plan, a corridor plan, a special area plan, or a sub-area plan) and the specific, technical requirements of a land use code. In sum, the rule of thumb is that the code implements the plans, and changes in use or development of land follow the code. See Figure 1.

The Role of the Code

The Code is not the only tool for plan implementation, but it is a critical one. The Code sets out the enforceable rules with respect to the use and development of private land. As such, it guides how (and in some cases, whether) private investments in land development, redevelopment, use, and reuse take shape.

Statutory Authorizations and Limitations

Frederick is a statutory town. As a statutory town, Frederick has the power to enact ordinances that are not inconsistent with state law, and that are necessary and proper to provide for the health, safety, prosperity, order, comfort, and convenience of the municipality. The Colorado Revised Statutes address a range of matters that are pertinent to the Code, including but not limited to master planning, zoning, subdivision, planned unit development, public meetings, open records, oil and gas operations, and vested rights. The statutes both confer authority upon the Town and constrain the exercise of that authority.



Figure 1: Planning Sequence.

A SHARED VOCABULARY

Community Character

Community character is a phrase that tends to mean different things to different people. For the purposes of the Code update, it will be used to describe the relative balance of three broad physical elements of any given place: buildings, paved areas, and “green” areas. With respect to these elements, community character is principally experienced from public rights-of-way (streets and trails) and from neighboring properties.

Framed this way, community character operates kind of like a red-green-blue color palette. See Figure 2, next page.

- In “urban” places, the defining visual element is buildings.
- In “auto-urban” places, the defining visual element is pavement (usually parking lots).
- In “rural” places, the defining visual element is “green” (whether natural or cultivated).

Using this approach, various patterns of development are relatively easy to classify as “urban,” “auto-urban,” “suburban,” or “rural.” That rubric allows for the evaluation of land use and zoning regulations in relation to larger objectives regarding community character. For example, where new or modified parking or landscaping standards are proposed, the impacts of the standards on the relative dominance of buildings, paved areas, and “green” areas on hypothetical development sites will also be considered. Table 1 (next page) shows how different types of design standards relate to the community character rubric.

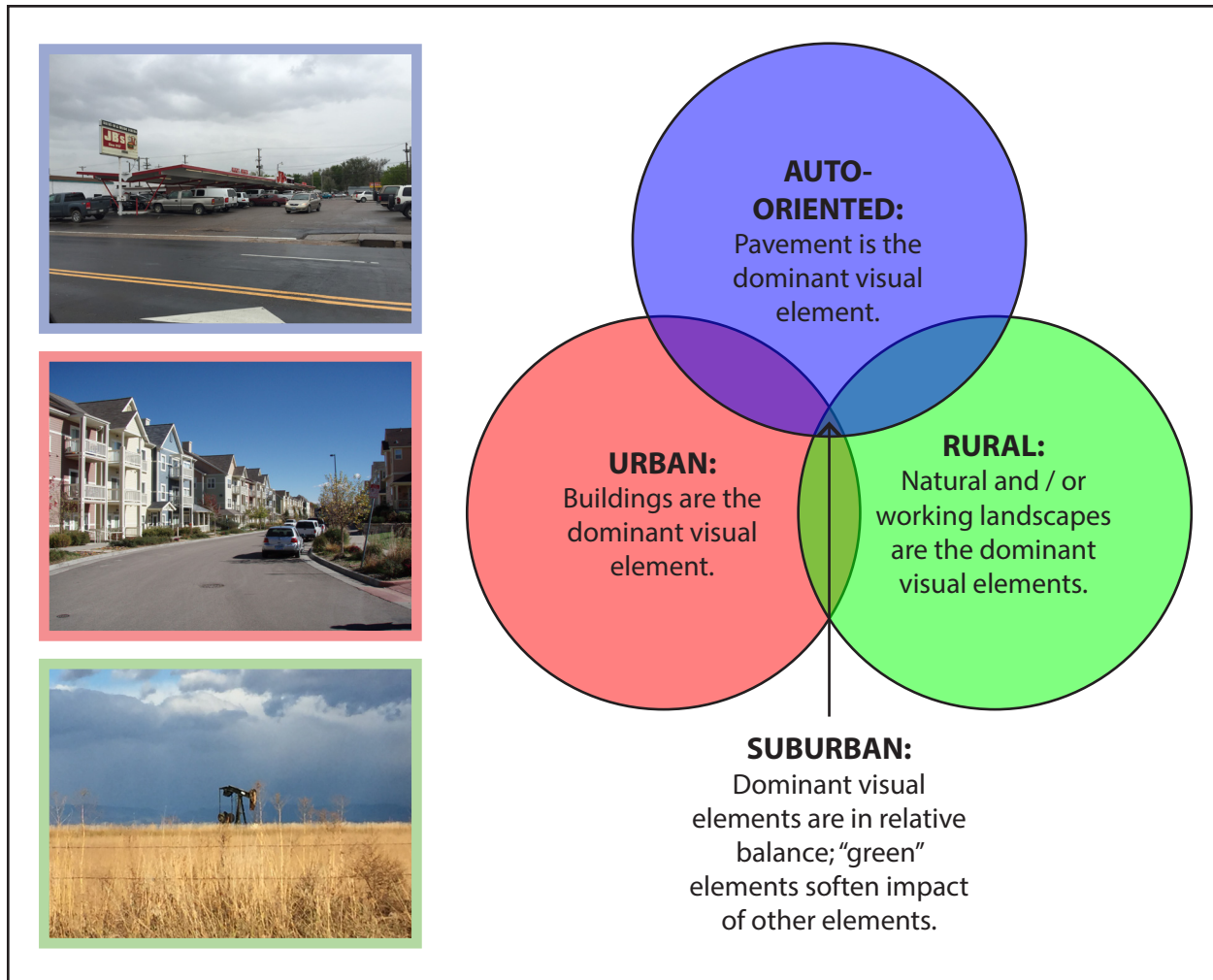


Figure 2: Community Character Palette

Table 1: Design Parameters and Community Character Palette			
Factor	Impact of Factor on —		
	Buildings	Vehicular Use Areas	“Green” Open Space
Design and functional classification of streets	Generally related to scale of use, which is a proxy for the scale of buildings	Influences width, uninterrupted length, access points, medians, etc.	Access points and landscaped medians may affect perception of “green” open space
Block size	Sometimes related to the types of buildings that are constructed	Affects the uninterrupted length of streets	Defines maximum areas of contiguous “green” open space
Vehicular access to lots	May influence building disposition (where buildings are located on the lot)	Influences how much pavement is visible from certain rights-of-way	Influences how much “green” is possible in street-facing yards
Building coverage	Related to mass of building	More building coverage means less area available for vehicular use areas	More building coverage means less area available for “green” open space

Table 1: Design Parameters and Community Character Palette			
Factor	Impact of Factor on —		
	Buildings	Vehicular Use Areas	“Green” Open Space
Building disposition	Affects how much the building dominates the view from the street and neighboring property	May affect how much of the lot’s vehicular use area is visible from the street and neighboring property	Affects how much “green” open space is possible between the building and the street and neighboring property
Building height	Affects the relative visual dominance of buildings	Generally affect the number of required parking spaces, which for surface lots, increases amount of land used for vehicles	As building coverage and parking coverage expand, area remaining for “green” open space shrinks
Architecture	Affects how much the building dominates the view from the street and neighboring property	Structural elements, such as screen walls, pergolas, street furniture, and public art can be used to screen vehicular use areas	Architectural styles can be used to blend in with or stand out from “green” open space
Landscaping	Can soften buildings and de-emphasize their relative impact on community character	Can soften parking areas and de-emphasize their relative impact on community character	Can enhance the relative significance of “green” open space on community character

Compatibility and Harmony

Compatibility and harmony are words that are often used in the context of land use decision-making. Arguably, ensuring compatibility and harmony among uses is a core purpose of zoning.

All too often, participants in the land use approval process evaluate whether a particular proposal is “compatible” or “harmonious” with its surroundings by way of a gut-check. Yet the underlying components of compatibility and harmony implicate more than 32 facets across three dimensions: physical, functional, and temporal.

The physical dimension of compatibility and harmony includes at least 16 facets: environmental impacts (which also includes impacts of environmental condition on the proposed use), historic context, building placement, architectural style, building scale, building massing, rhythm of solids and voids, structures and outdoor equipment, frontage types, building intensity, landscaping and fences, outdoor storage, building orientation, signage, window and door openings, and cladding materials and color.

The functional dimension also includes at least 16 facets: external risks, hours of operation (and peak hours), traffic movements, traffic volume, noise, lighting, dust (as well as smoke, odors, and electromagnetic interference), access, stormwater runoff, security and crime impacts, blighting influences, parking overflows, heavy truck trip generation, vehicular-pedestrian conflicts, impacts on public resources such as water and schools, and the potential for economic or other functional synergies among related uses.

The temporal dimension is different. It has to do with the point in time at which compatibility is evaluated. If the context surrounding a particular proposed development is undeveloped or likely to redevelop into something entirely new, then the measure of compatibility may be more appropriately calibrated to anticipated future development than the existing condition. This is particularly key in areas where development or redevelopment are desired, and new projects are expected to establish the desired character and quality for a larger area.

During a code update project, it is helpful to deconstruct the terms “compatible” and “harmonious” into constituent parts for the purposes of discussing and evaluating proposed policies and standards. The standards that are ultimately adopted should be specific enough to address facets of compatibility and harmony that are community priorities—ideally without using the terms “compatible” or “hamonious” at all.

Streamlined, User-Friendly Code

One purpose of the Code update project is to make the code “user-friendly.” Key to carrying out that purpose, is understanding who the users are and what they are looking for. That understanding guides choices regarding the organization and vocabulary of the code.

There are different primary audiences for different parts of the Code. For example, a landowner may be interested in questions like, “what can I use this land for, and how much of that can I do,” while a land planner or engineer will need to know the answers to more detailed questions like, “what are the allowable physical dimensions of the buildings,” or “how many parking spaces must be provided?” Advocates will be interested in administrative questions like “who approves development proposals,” and “how does one navigate the approval process.” Code enforcement officials, lawyers, and judges need to know how the Code is enforced.

In all cases, the Code should be presented in plain language, tables should be used when their use simplifies presentation of material, and graphics should be used to explain difficult concepts or definitions that are not easily presented with plain language.

To this last point, while graphics-intensive codes are a current fad, this Update Framework suggests that the use of graphics should be strategic. Graph-

ics should not be used gratuitously. First, creating and editing graphics is usually labor-intensive, so using graphics unnecessarily leads to higher costs, or potentially worse, higher risks of confusion (as graphics and code text are increasingly in conflict), as the Code is amended over time. Second, oftentimes graphics are taken literally by their audience, which can either stifle creativity or set unreasonable expectations (either too high or too low, or in complex situations, potentially both).

Electronic Presentation

The Town currently uses Code Publishing Company (“CPC”) to publish its Code online. The CPC presentation of the Code is robust, easily browsed, and easily searched. Additionally, the CPC service includes access to prior versions of the Code, which is helpful when addressing issues that come up with respect to the potential nonconforming status of existing development. While this Update Framework makes no recommendation regarding selection of a code publisher, the Town should consider the current feature set as the minimum specification if a new publishing platform is considered.

STRATEGIC ASSESSMENT

Relationship to Comprehensive Plan

The divergent paths of planning and regulation in the Town over time have created disconnects between the Town’s articulated land use policies (in the 2016 Plan) and the regulations that are intended to carry those policies out (the Code). Moreover, the pace of change in the Town and the region have rendered certain parts of both the 2016 Plan and the Code obsolete or ineffective.

As to the 2016 Plan, the market data that supported land use planning and some land use policies is now dated, and structural changes in retail and

the continuing impacts of the global pandemic on bricks-and-mortar retail investments have changed the way such data are considered. That means a new land use plan that is responsive to current and projected market conditions and resource constraints is needed to guide zoning and rezoning decisions.

The 2016 Plan includes a “residential growth strategy” that calls for the Town to take active measures to facilitate the build-out of residential developments. While this Update Framework does not take a position about whether residential growth should be curtailed, there does not appear to be a current need for the Town to take a proactive role in promoting the build-out of existing approved subdivisions.

Other provisions of the 2016 Plan appear to remain supported in the community, including but not limited to housing diversity; neighborhood connectivity; good community design; economic diversification; downtown as the “heart of the community”; and intensification of key intersections like I-25 and Highway 52.

Since the Code update will take place concurrently with the Comprehensive Plan update, the projects will coordinate to the maximum extent possible. To the extent that the Code update has a headstart, the Code update will provide a structure that will allow for subsequent amendments that implement new plans, without unintended consequences regarding the structure of the Code. Information gathered during the Code update process, including policy perspectives and solutions that are offered by participants, will be provided to those who are leading the comprehensive planning process.

Structural Condition of the Code

☞ ***The Code is in poor structural condition. It should be completely reorganized and rewritten from the “ground up.”***

The “bones” of the existing Code—that is, its original structure and essential terms—are now 20 years old. The Code was not comprehensively revised and restructured after the 2016 Plan was adopted. This Update Framework suggests that, even without reference to its content, the Code has become structurally unsound, and that, at a minimum, comprehensive reorganization is warranted.

Over the course of the last 20 years, the Code has been amended time and again. Some of the major amendments involved the creation of entirely new articles to address specific land uses (*e.g.*, manufactured home parks) or geographies (*e.g.*, Article 15, Downtown Code). While the amendments themselves served the purposes for which they were created, they did not necessarily integrate well into the Code itself.

In the short run, sometimes it is desirable to create free-standing provisions like Article 15 in order to address pressing issues. However, in the long run, it is almost always preferable to fully integrate such provisions into the rest of the code, creating a resulting structure in which different types of content are grouped together (and separated from each other in a disciplined manner).

A well-structured code has enhanced durability because it is relatively easy to amend without unintended consequences. While structural degeneration of code is a normal (and perhaps unavoidable) process, the enhanced durability that good initial structure provides allows for greater regulatory stability and longer periods of time between rewrites.

Accessory dwelling means an apartment integrated within a single-family dwelling or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings, located on the same lot as single-family dwellings. In the Agriculture and Estate Residential Zoning Districts, accessory dwellings shall be limited to a minimum of five hundred (500) square feet and a maximum of one half (1/2) the total floor area of the primary residence. In the R-1 and R-2 Zoning Districts, accessory dwellings shall be limited to a minimum of five hundred (500) square feet and a maximum of one thousand (1,000) square feet in floor area. For purposes of calculating residential density, each accessory dwelling shall count as one-half (1/2) dwelling unit. There shall not be more than one (1) accessory dwelling located on a lot in addition to the single-family dwelling.

Figure 3: The definition of “accessory dwelling,” set out in LUC § 1.15, includes text that defines the phrase (shown in blue), regulatory text controlling the floor area and the number of accessory dwellings (shown in red), and measurement text that indicates how accessory dwellings are counted when the density of a project is measured (shown in green).

Definitions

➡ **Definitions of words and phrases should be consolidated and refined. Gaps and overlaps should be avoided, and text that is not definitional removed.**

Most of the definitions of words and phrases that are used in the Code are set out in Section 1.15. However, there are also definitions set out in Sections 5.2, 8.5, 9.2, 10.1, and 14.2. Sections 7.21 and 15.3 are entitled, “Definitions,” but contain only general cross references to Article 1.

In addition to the organizational issues, within the definitions there are many words and phrases that are poorly defined, that overlap with other definitions (see Land Use, *supra*), or that include standards, procedures, or measurement text. See Figure 3. Such conditions significantly increase the risk of confusion, and the risk that important standards, procedures, or measurements will be overlooked or discovered late in the development review process.

The Vocabulary and Organization of Land Use

➡ **The land use table should be comprehensively updated to include consolidated, re-defined, and new land uses that provide flexibility and respond to current and future market demands.**

Generally, Table 3-1 in the current Code sets out a list of potentially permissible land uses, and

the zoning districts in which the land uses are allowed, allowed after an administrative “special use” process, allowed after a public hearing “conditional use” process, and not allowed. Although the inclusion and *format* of Table 3-1 represents a “best practice” in code drafting, the *content* of Table 3-1 has much room for improvement. This Update Framework suggests that the list of land uses in Table 3-1 be refined to ensure that:

- All listed uses are “principal land uses”;
- Gaps, overlaps, and redundancies among related land uses are resolved;
- All land uses have a corresponding (and clear) definition in the Code;
- The table does not include procedural requirements (other than the generic type of approval that is required); and
- The table does not merge land uses with development standards.

Industrial Uses. Not all of the uses listed in Table 3-1 as “Industrial Uses” are industrial in nature. Among the uses that are industrial, there are issues with both overspecification and overlapping definitions (see Table 2, next page). In order to reduce confusion, implement the 25/52 East Sub-area Plan, promote job creation and economic development, and streamline approval procedures regarding desirable industrial uses in other ar-

Table 2: Industrial Uses in Existing Table 3-1

Permitted Uses	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations
Dry-cleaning plants															C		C-E: (13), (14), (28)
Heavy industrial uses															P		(6), (28)
Light industrial (production, assembly and packaging)												C	P	P	P		(6), C-E: (13), 28
Machine shop														P	P		(28)
Manufacturing and preparing food products															P		(28)
Manufacturing, assembly or packaging of products from previously prepared materials													P	C	P		(6), C-E (13), (28)
Manufacturing of electric or electronic instruments and devices													P	C	P		C-E: (13), (28)
Plumbing, electrical and carpenter shops														P	P		(6), (28)
Research, experimental or testing laboratories												C	P	C	P		C-E: (13), (28)
Resource extraction, processes and sales establishments	C														C	C	(6), (28)
Warehouse, distribution and wholesale uses														P	P		(6), (28)
Workshops and custom small industry											C	P	P	P	P		C-E: (13), (28)

eas of the Town, the industrial use classifications should be reconsidered and overhauled.

One approach to simplifying the classifications of industrial uses is to focus on their external impacts. In general, these impacts relate to:

- Heavy truck traffic;
- Noise, dust, odors, electromagnetic interference, glare, and ground vibration;
- Environmental risks (e.g., risk associated with leaks or releases of hazardous materials, risk of explosions, etc.); and
- Visual impacts of outdoor storage areas, outdoor processing areas, and outdoor appurtenances and equipment.

Viewed through this lens, industrial uses can be described in a simplified way. Uses that are low-impact with regard to each of these measures can be classified as “light industrial.” Uses that are low impact in terms of risks and aesthetics, but high impact in terms of truck traffic can be classified as “logistics.” Uses that are high impact in terms of risks and aesthetics can be classified as “heavy industrial.” Although “heavy industrial” does not have to address the volumes of truck traffic (because in general the other externalities are more important), a fourth classification, which would involve high risks or aesthetic impacts combined with high levels of heavy truck traffic could also be made, if necessary. See Figure 4, next page.

		Environmental Risks / External Impacts	
		Below Threshold	At or Above Threshold
Heavy Truck Traffic	Below Threshold	 Light Industrial	 Heavy Industrial
	At or Above Threshold	 Logistics	 Heavy Industrial (or 4th Classification)

Figure 4: Simplified Industrial and Logistics Classifications
(image source: Adams County, Colorado GIS (2020 aerial photography))

A simplified approach to industrial uses, comprised of light industrial, heavy industrial, and logistics would eliminate the need for land uses like “machine shop,” “dry-cleaning plants,” “manufacturing and preparing food products,” “manufacturing, assembly or packaging of products from previously prepared materials,” “manufacturing of electric or electronic instruments and devices,” “plumbing, electrical and carpenter shops,” “research, experimental or testing laboratories,” “resource extraction, processes and sales establishments,” and “workshops and custom small industry.”

Marijuana Uses. Under the “Business / Commercial / Retail Uses” heading in Table 3-1, the current

Code lists “Marijuana Grow Facility,” “Marijuana: Recreational - Up to 6 Plants,” “Marijuana Retail Operation,” “Medical Marijuana: Patient, Up to 6 Plants,” “Medical Marijuana: Patient, More than 6 Plants But Less Than 99 Plants,” “Medical Marijuana Primary Caregiver, Up to 6 Plants,” and “Medical Marijuana Primary Caregiver, More than 6 Plants But Less Than 99 Plants” as land uses.

Marijuana grow facilities and marijuana retail operations (neither of which are defined in the Code) do not appear to be allowed in the Town (there are no Ps, Ss, or Ps in the corresponding row of Table 3-1). However, Table 3-1 indicates that “additional regulation” numbered 28 applies to them (more on that below).

The rest of the marijuana land uses are not really land uses. For example, the phrase “marijuana: recreational” which is not defined in the Code is, presumably, included in Table 3-1 to allow a certain maximum number of marijuana plants to be grown in homes located in certain zoning districts for personal use of the home’s occupants.

The phrase “medical marijuana patient” is defined in the Code, and the definition creates more confusion than it resolves.⁴ As far as Table 3-1 goes, the inclusion of “medical marijuana patient” may work the same way as “marijuana: recreational” with regard to the cultivation of (in this case, medical) marijuana plants, but it is hard to tell. It is also hard to tell whether a medical marijuana patient could “lawfully” grow 12 plants, six medical and six recreational. In any case, it is hard to argue that a “person who meets the definition of patient . . .” is a *land use*, which would technically mean that that person is not allowed to traverse the C-N, C-C, C-H52, C-E, BLI, I or P zoning districts (except with regard to the I zoning district, if the person grows more than 6 plants but less than 99 plants, a conditional use permit would potentially be available to authorize such activity). Same goes for “medical marijuana primary caregiver.”⁵

In 2019, most of Colorado’s marijuana laws were updated and recodified at C.R.S. § 44-10-101, *et seq.* (“Colorado Marijuana Code”). There are additional marijuana provisions in C.R.S. §§ 25-1.5-106 and 26-1.5-106.5. The new laws substantially expanded the different types of marijuana businesses that can be licensed in Colorado. Even if most or all of the license types are not allowed in the Town, all marijuana provisions in the Code

should be updated and reorganized as appropriate to reflect the statutory amendments.

Storage Containers. The last column of Table 3-1 is entitled “Additional Regulations (Apply in All Districts Unless Otherwise Stated).” In this column “The numbers of additional regulations . . . relate to regulations that can be found following the Table of Permitted Uses.” Those standards “are in addition to the general criteria applicable to all uses and to the general development and subdivision standards stated in Articles 2 and 4, respectively.”

Every row of Table 3-1 that includes a land use, whether that land use is permitted anywhere in the Town or not, includes a reference to “Additional Regulation” number 28. That standard limits the use of “storage containers” (shipping containers). A cross-reference from Table 3-1 to the end of a long list of use-specific standards is not an intuitive location for addressing containers. Moreover, the impact of storage container limitations on site design for warehousing and distribution uses should be considered during the Code update process.

Community Design

➤ ***The community design principles in the existing Code contain valuable material, but in their current condition they are poorly organized and insufficiently focused.***

Article 2 of the current Code sets out “Community Design Principles and Development Standards.” Some focus group participants commented on the positive impact that Article 2 has had on the quality of development. This Update Framework supports the idea that there is valuable material in Article 2 that should be transferred into a new Code.

Still, the majority of the emphasis in the existing Article 2 is residential neighborhoods, and in that respect, principally single-family detached

⁴“Medical marijuana patient” is defined in the Code as “a person who meets the definition of patient under Article XVIII, Section 14(1)(d) of the Colorado Constitution and applicable law.”

⁵The Code defines “primary caregiver” as “a person who meets the definition of primary caregiver under Article XVIII, Section 14(1)(f) of the Colorado Constitution and applicable law.”

residential neighborhoods. Community design standards should be context-specific and should embrace (and enhance) all types of development within the Town. In an effort to reorganize the Code into a more durable structure, the material in Article 2 should be reallocated within the new Code, and the applicability of that material to different types of development should be clarified.

Balancing Land Uses

➡ ***The Code and the Official Zoning Map should provide for appropriate balancing of land uses.***

Balancing land uses involves several factors. First, the Official Zoning Map should provide a sufficient inventory of strategically located land (identified during the Comprehensive Plan update) for desirable nonresidential land uses. Second, the Code should make it relatively easy to obtain approvals for nonresidential uses that the Town wants. Finally, the Code should describe land uses in a manner that neither over-specifies them (resulting in micro-management of land use) or under-specifies them (allowing too wide a range of land use impacts to be permitted under the same land use definition), and then allocate land uses among zoning districts in a way that facilitates development of clusters of mutually supporting uses.

Development Review Procedures

➡ ***Development review must be calibrated to statutes to the extent required by law, and review by public hearing should be undertaken only where required by statute or where such review will add value to the development and the community. The Town should reduce the use of Planned Unit Development procedures.***

The most commonly used development review procedures are set out in Article 4. Article 4 is entitled “Subdivision Regulations,” but includes development review procedures and standards for 20 different types of applications, most of which are not related to subdivision review.

In addition to the review procedures in Article 4, there are a variety of procedures and procedural elements (e.g., time calculations and review fees) scattered throughout the rest of the Code. They are set out in Sections 1.11, 1.13, Article 5, 8.12 through 8.15, inclusive, 9.3 to 9.7, inclusive, 10.2, 10.20, 11.1, 11.2, 11.4, 11.5, 11.8, 11.11, 12.1, 12.6, 12.7, 12.10, 13.2 to 13.8, inclusive, 14.4 to 14.9, inclusive, 14.11 to 14.18, inclusive, and 15.2.

The development review procedures include significant details regarding application requirements. As such, presently, changes to the application requirements must be approved by the Town Board by Ordinance. A simpler Code would authorize Staff to develop application forms that are pertinent to decision-making based on the standards in the Code.

The development review procedures also include standards for decision-making. With regard to sketch plans and preliminary plats, the standards may tend to discourage some types of desirable nonresidential or mixed-use development, including that which is contemplated by the 25/52 East Subarea Plan. For example, sketch plans and preliminary plats (which would apply with equal force to a residential subdivision and an industrial park, office park, or retail subdivision) must:

[further] the goals and policies of the Comprehensive Plan, including:

- (a) The proposed development promotes the Town’s small-town, rural character;
- (b) Proposed residential development adds diversity to the Town’s housing supply;
- (c) Proposed commercial development will benefit the Town’s economic base;
- (d) Parks and open space are incorporated into the site design;
- (e) The proposed project protects the Town’s environmental quality; and

(f) The development enhances cultural, historical, educational and/or human service opportunities.

While the Town's review procedures are not terribly complicated compared to some other Front Range jurisdictions, there are opportunities to reallocate which uses are permitted "as-of-right" and which uses are permitted only after Planning Commission recommendation and Town Board approval of a conditional use permit.

Similarly, common use of planned unit development ("PUD") review procedures is an indicia of weakness in the Code. PUD procedures are intended to provide flexibility for high-quality development that does not strictly comply with "straight zoning" district standards. Instead of creating essentially a new zone for each new development, this Assessment suggests that "straight zoning" districts should be flexible enough to accommodate—and encourage—creative, high-quality development.

Enforcement

➡ **Enforcement procedures should follow statutory requirements, and to the extent local control is available, reflect current practice.**

Enforcement procedures are set out in Article 6, entitled, "Enforcement." There are additional enforcement procedures in Sections 7.20, 9.14, 10.22, and 11.12.

There are a number of statutory provisions that control enforcement and available remedies, including but not limited to: C.R.S. §§ 31-23-308, 31-15-103, 31-15-401, 31-15-402 (nuisances), 24-67-106 (regarding planned unit development), 31-15-1101 (mobile home parks), and 31-16-101 (penalties). The enforcement provisions of the Code should be compared to the statutory authorizations and refined as necessary.



Figure 5: Too often, development review procedures are overcomplicated, not unlike a marble run. A well-conceived development review process should be, as Albert Einstein once put it in a different context, "as simple as possible, but not simpler." Every step of the review process should be purposefully designed so that it tends to improve quality or add value.

That said, code enforcement in the Town does not appear to present material issues (other than the interpretive issues that attend to a code at this stage of its life cycle). As such, except as provided above, the existing code enforcement program should be retained.

PROPOSED CODE STRUCTURE

This Update Framework recommends the following order of content presentation in a new Code:

- *Preliminaries* (the title and purposes of the Code, the situations where the Code applies and does not apply, the authority for the Code, where the Code applies, how the Code relates to the Comprehensive Plan and to other laws, how do deal with applications that are in process at the time a new Code is adopted, how

the Code relates to private covenants, *etc.*).

- *Development Standards* (the substantive standards for land use and development; for example, what land uses are allowed in each area of the Town, how intense those uses may be, parameters for how the development must be designed, *etc.*).
- *Special Standards and Management of Development Impacts* (requirements for special districts, annexations, dedications, *etc.*, that are not directly related to project design).
- *Nonconformities and Incremental Compliance* (how the Code applies to situations where the use or condition of the land was allowed before the new Code was adopted, but is now prohibited or limited by the new Code; and how to either allow the condition to continue as an approved condition or to bring the property into compliance over time).
- *Development Review Procedures* (the people or bodies that are responsible for decision-making and the procedures that an applicant must follow in order to obtain various approvals that are required by the Code).
- *Enforcement and Remedies* (how the Code is enforced, and what remedies the Town may seek for violations of the Code).
- *Measurements and Definitions* (how various measurements are taken and what the technical words and phrases mean).

NEXT STEPS

This Update Framework is an early step in the Code update project. It provides a policy foundation and strategic approach for the work ahead. After the Update Framework is accepted by the Planning Commission and the Town Board, the iterative work of code drafting will begin.

It is anticipated that the work of developing and vetting code priorities and regulatory “tools” will be assisted by a committee. Fairfield and Woods will provide the committee with issue outlines to focus discussion around critical land use and development design issues. The consensus of the committee as to those issues will then be translated into code text, which will be delivered to the Town for further review (by Town Staff and potentially the committee as well).

The Code team will check in with the Planning Commission and Town Board several times as the new Code is developed, in order to verify that it is reflective of the shared perspectives and values of the community. Some of those check-ins will also include “open house” poster-board sessions where Town residents, landowners, and business owners will be invited to review concepts and offer their perspectives and comments.

Towards the end of the process, a draft new Code will be provided to the Town for public review and comment. That draft will be updated as appropriate after review, and will be presented to the Planning Commission as an “initial public hearing draft.” After a formal public hearing, the Planning Commission will make a recommendation to the Town Board (with or without modifying the initial public hearing draft). The Town Board will then consider a final public hearing draft (with such modifications as are appropriate) at a formal adoption hearing.

As the Code is developed, information will be posted on the Town’s web site at:

<https://frederickco.gov>