

DELTA COUNTY PLANNING COMMISSION MEETING

**Administration Building
560 Dodge Street – Board Room
Delta Co 81416
Wednesday
February 17, 2021
@ 5:30 p.m.**

Instructions for Public Participation:

The public can join the meeting remotely by registering in advance of the meeting at:

<https://us02web.zoom.us/meeting/register/tZEtd-msqjkjH9ZhHF63B2XzIFsBbCmxSakX>

After registering, you will receive a confirmation email containing information about joining the meeting.

REGULAR AGENDA

- Item #1: Approve Meeting Minutes for January 27, 2021**
- Item #2: Elect Planning Commission Officials**
- Item #3: Land Use Code Implementation**
- Item #4: Adjournment**

CERTIFICATION OF POSTING

On 2/10/2021 at 2:30 PM, Vivian Archuleta did post the above AGENDA as public notice of the 02/17/2021 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.

DELTA COUNTY PLANNING DEPARTMENT



STAFF REPORT

Delta County Planning Commission Meeting

Delta County Administration Building
560 Dodge Street
Delta, CO 81416

February 17, 2021

2021 DELTA COUNTY LAND USE CODE Informational Report

RECOMMENDATION:

Staff recommends that the Planning Commission receive a report on the 2021 Delta County Land Use Code:

- a. Relationship between the Master Plan and Land Use Code
- b. Overview of the Review Process
- c. Subdivisions under the new Land Use Code
- d. Overview of Variance findings
- e. Public Education/Outreach

SUMMARY:

On January 27, 2021, the Planning Commission requested that staff provide information on implementing the Delta County Land Use Code (LUC). The intent is to help identify the role of the Planning Commission going forward, and also to help inform the public on the new LUC.

On January 5, 2021, the Board of County Commissioners implemented a moratorium on accepting new applications. This was done to allow time to complete processing as many

existing applications as possible and to prepare for applications under the new Land Use Code (LUC) being accepted April 1, 2021.

Staff is in the process of developing application forms and procedures consistent with the LUC. This report discusses a couple of those procedures, specifically related to subdivisions and variances. Many of the questions received ask about the ability to subdivide, both for personal (family) and development purposes. In general, the LUC affords the ability to subdivide; however, certain criteria must be met if the minimum lot size established by zoning cannot be met.

The public can focus more on Chapters 2, 3, 4 and 5 of the LUC as the primary Chapters that provide standards by which projects are assessed (set backs, design standards, infrastructure standards). Staff will use the other chapters for direction on administrative and procedural matters.

Under the new Code, the Planning Commission (PC) makes recommendations to the Board of County Commissioners (BOCC) on subdivisions with three or more parcels, conditional use permits, rezones, as well as amendments to the Land Use Code and Master Plans. The Community Development (Planning) Director is assigned as the decision-making authority for minor applications and also makes determinations on implementing the Code as well as develops forms to use with applications. If there is a substantial issue, the Director can refer the matter to the PC and BOCC. A Board of Adjustments (BOA) is created through the LUC as the decision-making body for variances and serves as the appeal authority for decisions/determinations by the Director.

DISCUSSION:

Relationship between the Master Plan and Land Use Code

In 2018, Delta County adopted a Master Plan that set policy for long range planning of land use and development. These policies provided guidance for developing the 2021 Land Use Code, which established regulatory standards to meet the goals and objectives of the Master Plan. A Recreation and Trails Master Plan was also adopted in 2018 as a component of the long range planning efforts to integrate trail planning with land use.

The relationship between the documents is that the Land Use Code (LUC) is regulatory with more specific direction on how growth should occur based on general policy direction from the Master Plan(s). Direction in the Master Plan is for higher densities to be located closer to urban areas and services (towns) in order to help protect Agricultural/Irrigated lands.

Long range plans typically plan out about 20 years, and might be updated around 10 years depending on how much has changed from what was anticipated. A Master Plan can be reviewed annually to assess what has occurred to help identify when/if amending the Master Plan is desired. The LUC implements the Master Plan as the guiding policy document. If the LUC is amended, said amendment should be reviewed against the

Master Plan policies. When the Master Plan is amended, it should be followed by review of the LUC and possible amendment if needed.

Overview of the Review Process

When getting started, the first step is to find the zoning of the parcel on the Zoning Maps and then reviewing the Zoning Table (Chapter 2, Section 2.B, Table 2.b, pages 30-31 of the LUC). Generally, Chapters 2, 3, 4 and 5 of the LUC are the main sections where the public should focus their attention. These chapters provide the standards by which projects are assessed (set backs, design standards, infrastructure standards). Other chapters in the LUC are largely administrative and procedural in nature that is more for staff use.

Uses that are allowed by right do not require any action by the County. However, all new development is responsible to be done consistent with standards in the adopted Land Use Code (LUC). In general, where a use is not allowed by right, there are three avenues for project review:

- Administrative Review (Director). Minor projects like zoning permits and 2-lot subdivisions will be handled administratively by the Community Development (Planning) Director. If there are significant issues, the Director can refer matters to the Planning Commission to make a recommendation to the Board of County Commissioners.
- Board of Adjustments (BOA). The BOA is a new, independent body appointed by the BOCC with its own By-Laws. Their charge is to take action on variances and appeals of decisions or determinations by the Director.
- Planning Commission (PC) - Board of County Commissioners (BOCC). Projects that go directly to the PC include larger subdivisions 3+ lots, conditional use permits (CUP), and matters pertaining to the LUC (e.g. rezoning) as well as the Master Plan. The PC makes recommendations to the BOCC.

Any application for a use that is not allowed by right begins with a pre-application meeting, unless it is waived by the Director. The idea is for an applicant to provide a concept (sketch) plan showing the site and what they would like to do. Said plan should include information about major features on the site (creeks, ditches, utilities, easements, etc). Within three (3) weeks following the pre-application meeting, staff will provide the applicant with a checklist that explains the process and identifies information and fees required to process the application. Staff is developing a fee schedule to present to the BOCC for consideration prior to April 1, 2021.

The LUC assigns authority for creating forms to the Community Development Director. Staff is developing/updating applications trying to avoid redundancy of information. Generally, we are creating one form for the pre-application and one standard form for the application/checklist that will cover all types of uses but will be individualized based on the project. This is an opportunity to refresh all forms that come in through the Planning Department as the point for a 1-stop Permit Center.

Subdivisions

Regulations for subdivisions have changed procedurally, but the standards generally remain the same.

- 2-Lot subdivisions can be approved by the Director (administratively). A decision by the Director can be appealed to the Board of Adjustments. Lot Line (Boundary) Adjustments are approved by the County Surveyor with a finding from the Community Development (Planning) Director that it is consistent with the LUC.
- Larger subdivisions will prepare a Preliminary Map rather than a Sketch Plan. There is an initial review at the pre-application meeting, meaning that the product presented to the PC should be more refined and complete than a sketch plan. The PC makes a recommendation to the BOCC.
- Once the improvements are completed and conditions met, staff presents the Final Map to the BOCC for acceptance.

Variances

Variances can include reducing specifications established by Code (e.g. set backs) or allowing creation of a lot that does not meet the minimum lot size per zoning. Under certain conditions, unless otherwise established by the LUC, the Director can allow a minor variation to dimensional or numerical standards. However, the Board of Adjustments (BOA) is assigned the authority to approve, conditionally approve or deny a variance from the requirements of the LUC.

A variance affords relief from the LUC but is considered an extraordinary remedy. As such, in order to grant a variance, the BOA must find that a project meets all aspects of a 3-part test:

1. *Unique Conditions.* There are exceptional conditions (e.g. lot shape, topography, etc) where strict application of the Code would create an undue hardship.
 2. *Special Circumstances.* Strict application of the regulations would create difficulty or hardship. [NOTE: Hardship for purposes of implementing the LUC is not defined.]
- *Consistent with the Plan.* Granting a variance will not be substantially detrimental to the public good or impair the intent of the Code. Chapter 1, Section 2.A establishes the purpose (intent) of the LUC.

In order to consider a variance for creating one new parcel, the BOA must also determine that the parcels: a) Conform to all other requirements of the LUC; b) Meet the minimum lot dimensions for the zoning designation; c) Do not interfere with wildlife habitat; and d) Are restricted from further subdivision.

Public Education/Outreach

A key group of stakeholders are realtors and title companies. Staff contacted Ms. Jill Young, Association Executive with Delta County Board of Realtors and offered to meet with the group to provide some “how to” information such that realtors are able to investigate what can be done on a property and accurately advise their clients. Ms. Young advised that the General Membership meetings on hold for now, but that she would discuss this opportunity to meet with their Board of Directors. Staff offered to

meet virtually with the group and invited them to sign up to listen in at this PC meeting where we would be discussing implementation of the LUC.

Another key group of stakeholders are surveyors and builders/developers. One surveyor at the PC meeting on January 27th noted that he had some concerns about the LUC. Staff reached out to Mr. Randy Wilmore after the PC meeting and asked for his comments.

In addition to stakeholder groups, staff has identified some common questions, also known as Frequently Asked Questions (FAQs). The intent is to develop responses and then post FAQs on our website for everyone to access.

Q: Do I need building permits?

A: Building permits are not required in the unincorporated areas of Delta County; however, Electrical and Plumbing permits are required through the State. Also, septic permits are required from the County Health Department, and an Address/Access Permit is required before developing a property (initiate application through the County Planning Department).

Land Use Codes are separate from Building Codes. Land Use Codes provide direction of what can occur where. Building Codes provide specifications how a structure must be built.

Q: Can I subdivide parcels that area smaller than the zoning designation?

A: Zoning designations establish the minimum parcel size and lot dimensions (Chapter 3.A, Table 3.a LUC). Lot sizes range from smaller lots (7,500 sf) in the Urban Growth Areas (UGA) to larger lots (35+ Acres) in the A-35 zone.

A property owner can divide off a portion of their parcel that does not meet the minimum lot size provided it is not part of a previous subdivision. However, the Board of Adjustments must grant a variance from the minimum lot size before such subdivision can be approved. In addition, the BOA must also determine that both parcels: a) Conform to all other requirements of the Code; b) Meet the minimum lot dimensions for the zoning designation; c) Do not interfere with wildlife habitat; and d) Are restricted from further subdivision. EXAMPLE: A property is zoned A-20. The owner wants to divide off a portion of a 20-acre parcel for their family. Said owner may apply for a variance to create one new lot that does not meet the minimum lot size.

Alternatively, the owner can apply for a rezone to change the zoning designation that could allow subdivision without a variance. Rezone requests go to the Planning Commission to make a recommendation to the Board of County Commissioners. In considering such a request, planners looks at surrounding zoning and conditions with a specific focus on not impacting agricultural lands. EXAMPLE: A property is zoned A-20. The owner wants to subdivide into smaller lots. The owner may apply for a rezone to A-5 where a 20-acre parcel could be subdivided into a maximum of four new lots.

Q: Do I need to reapply for a permit if I move?

A: A permit (entitlement) is issued to a parcel, not a person. Land use entitlements run with the land. As such, the next owner assumes that permit and any conditions included with that permit. However, a use can be abandoned if it not operated for 12+ months. If

the person operating a use wants to operate the same use on a different parcel, they will need to process an application for that parcel.

Q: What is required for campgrounds, campsites, camping (own property)?

A: The Land Use Code refers to State regulations (6 CCR 1010-9, 2.10.d) that can be found on the State's website:

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=410> Use of an RV on your own property is allowed as a temporary use under certain circumstances (Chapter 2, Section 3, pages 33-34 LUC). Said RV becomes a residence when connected to permanent/permitted infrastructure (power, water, wastewater).

Prepared by: Carl P. Holm, AICP, Director of Community Development and Natural Resources, 970/874-2105, cholm@deltacounty.com
February 10, 2021