



To: Planning & Zoning Commission

From: Planning Department

Date: March 19, 2024

Agenda Item: LUDC text amendment to resolve inconsistencies, provide clarity and correct omissions for several items within the Land Use and Development Code (LUDC).

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## REQUEST

For Planning Commission to review and provide feedback on staff proposed modifications to the Land Use and Development Code in a worksession.

## BACKGROUND

In October 2023, the recently adopted Land Use and Development Code (2023 LUDC), also known as ReCode, took effect. In the months since, staff has identified a number of “simple” modifications and/or corrections that are needed in order for the new code to work as intended. The modifications proposed at this time fall into the general categories of omissions, minor conflicts, and enhanced clarity. By Code, these corrections require review and recommendation from the Planning Commission, and then adoption by Town Council. The Planning Commission will be reviewing and providing a recommendation for the corrections listed and discussed below at their regularly scheduled public meeting on April 16, 2024.

The Town’s Land Use and Development Code is a dynamic document, necessitating periodic adjustment to cater to the unique and evolving needs of our community. Staff believes that adjustments to the new code should follow a specific prescription in terms of review by the Planning Commission and approval by Town Council. We offer this memorandum as an example of how we would like all subsequent Code adjustment efforts to work relative to process, and would welcome your input regarding the same. The corrections addressed in this memorandum, and all future corrections that may be proposed by staff, will be consistent with the overarching goals of the ReCode effort, which include streamlining of process, greater clarity, accuracy of text, and ease of navigation.

### 1. Development Permit Threshold

**Issue:** The new code provides an administrative review upper threshold of just two dwelling units, through an Administrative Development Plan review. This minimal threshold was not intended.

**Correction:** Staff recommends that administrative approval be required for proposals of up to 4 dwelling units. The Planning Commission would only be asked to review and approve proposals of 5 dwelling units or more (through a Minor Development Permit process).

### 2. Outdoor recreation facilities in the new CGE and CI zone districts.

**Issue:** The new CGE and CI zone districts prohibit outdoor recreation as a use. This is inconsistent with guidance provided by the East Eagle Subarea Plan.

**Correction:** The Use Table should be modified to indicate Outdoor Recreation as a use allowed by Special Use Permit in the CGE and CI zone district.

3. Minimum Lot Area standards in Commercial and Broadway Zone Districts  
**Issue:** Minimum lot areas were not included in the dimensional standards for the Commercial, Industrial and Broadway zone districts. This is an unintended omission.  
**Correction:** Insert minimum lot area standards from the previous code into the zoning standards table for Commercial, Industrial and Broadway zone districts, consistent with 2023 LUDC direction.
4. Allowance of functional turf in commercial and industrial zone districts  
**Issue:** The 2023 LUDC prohibits the use of turf in commercial and industrial zone districts. Parks and playgrounds are listed as uses by right in these districts, however, which is clearly inconsistent with the prohibition.  
**Correction:** Modify code language to allow turf for those uses clearly dependent on turf in these zone districts to achieve desired development outcomes.
5. Easement requirements  
**Issue:** The 2023 LUDC is missing language requiring the establishment, prohibition or encroachment of easements. This is an unintended omission.  
**Correction:** Reinsert easement standards from the previous code.
6. Newspaper notice  
**Issue:** The 2023 LUDC does not specify when a newspaper notice needs to be published in advance of a public hearing. This is an unintended omission.  
**Correction:** Reinsert the 15-day minimum timeframe.
7. Applicability of Geologic Hazards Evaluation  
**Issue:** A geologic hazards evaluation is required for most projects under the 2023 LUDC.  
**Correction:** Allow the Director discretion to waive this requirement, based on the nature and location of the proposed improvement.
8. Applicability of Wildlife Conservation Study  
**Issue:** The 2023 LUDC requires single family residences and duplexes to complete a wildlife conservation study. It was not intended that development at this level trigger a wildlife study.  
**Correction:** Remove single family residences and duplexes and replace with “major subdivision application”.
9. Insertion of Plat Certificates  
**Issue:** The 2023 LUDC failed to include the various plat certificates that are required by the Town. This was an unintended omission.  
**Correction:** Update and reinsert plat certificate information.
10. Duplex omitted from definition of Accessory Dwelling Unit (ADU)  
**Issue:** The definition of an Accessory Dwelling Unit in the 2023 LUDC limits its application to Single Family Homes. This is not accurate, as ADU’s are also allowed in Duplex structures.  
**Correction:** Modify the definition to allow ADU’s in duplexes.

Again, the purpose of this work session discussion is to gather insights on the proposed list of updates before the Town undergoes the formal hearing process to modify the code. Towards the end of the work session, staff will introduce other revisions that will be brought before the Commission later this year.

## ANALYSIS

### Development Permit Threshold (Section 4.17.080.C.2.b)

Staff propose a minor adjustment to the Development Permit Threshold table (Table 4.17-5) that would allow for an administrative review of development plans for up to 4 residential dwelling units. The previous Code required staff to administratively review and approve developments with up to 8 units, which created some discomfort given new residential design standards, and potential impact considerations from relatively large projects. The 2023 LUDC reduced the residential threshold to 2 units, which will unnecessarily forward relatively simple proposals to the Planning Commission. We would suggest that 4 units be the threshold.

The 2023 LUDC introduced new design standards and increased density within all residential zone districts. Considering these changes, staff has proposed the review threshold increase to 4 dwelling units as a middle ground between 2 and 8, allowing the Planning Commission the opportunity to review mid-sized developments and assess the impacts of our new standards.

#### **Outdoor Recreation as a Special Use Permit in CGE and CI (Section 4.09.030)**

The 'Use Table' in the 2023 LUDC currently prohibits outdoor recreation facilities in all zone districts except for Resource. The East Eagle Sub Area Plan (EESAP) speaks of the importance of recreational facilities as a part of the Town's branding, and recommends they be allowed in the East Eagle area. Staff proposes that "Recreation Facility, outdoors" should be indicated as allowed by special use permit in the Commercial General East (CGE) and possibly Commercial Interchange (CI) zone districts. The EESAP is linked for your reference here: [East Eagle Sub Area Plan](#).

#### **Minimum Lot Area for Commercial Zone Districts & the Broadway District (Section 4.05.030/040/060)**

The 2023 LUDC does not currently have minimum lot sizes for the Commercial General (CG), the Commercial General East (CGE), the Light Industrial (IND), or the Broadway (BD) zone districts. Minimum lot areas are essential for the proper administration of land use processes, specifically subdivision, in any zone district. Staff believe this was an unintended omission and recommend reinserting minimum lot areas for these zone districts.

#### **Allowance of Turf in Commercial and Industrial Zone Districts (Section 4.11.030.B)**

The 2023 LUDC introduces water conservation regulations including a limitation on the amount of turf permitted by zone districts. Within Commercial and Industrial zone districts, turf is not allowed. Unfortunately, this limitation does not consider commercial development plans that might require some turf grass to support uses such as dog parks, playgrounds, athletic fields, picnic areas, or communal gathering spaces, which could be demonstrated as legitimate for these districts. Staff propose that turf should be limited, but not prohibited, in the commercial and industrial zone districts.

#### **Easements**

The previous Town Code included requirements specific to easements that outlined when an easement required dedication, the prohibition of easements, and the allowance for the encroachment of easements. The 2023 LUDC is missing this language, which staff believe was an omission. Staff is proposing to reinsert the previous easement language that can be found in Section 4.15.070 of the previous code and through this link: [Section 4.13.100. Easements](#).

#### **Newspaper Notices (Section 4.17.050.C.7)**

The previous code specified that publication of public notice in a newspaper was required at a minimum of 15 days prior to a public hearing. The 2023 LUDC does not include this requirement. Staff believes this was an unintended omission and recommends inserting language providing a 15-day deadline for newspaper publication prior to a public hearing.

#### **Geologic Hazards Evaluation – Applicability (Section 4.14.030.E)**

Staff propose the 2023 LUDC enable the Director the discretion to waive the geologic hazards evaluation for projects that meet certain criteria, including but not limited to 1) the property is located in a subdivision that is largely built out and that has no history of geologic issues, or 2) visual inspection of the proposed site confirms that there are no geologic hazards in the immediate area, or 3) research confirms that a full geologic hazards analysis was conducted as part of the subdivision approval process that created the targeted property.

#### **Wildlife Conservation Study – Applicability (Section 4.14.040.B)**

The 2023 LUDC currently requires a wildlife impact review for new developments on sites larger than 2 acres as well as single family dwellings and duplexes. However, the Town of Eagle's existing subdivision process requires applicants to demonstrate how impacts to wildlife and wildlife habitats will be minimized or mitigated. To enhance clarity, staff recommends replacing the language referencing all new single family detached residences and duplexes with "major subdivision application" for requiring a wildlife impact review.

#### **Plat Certificates**

The plat certificates lived in a separate appendix in the previous code. Staff propose to reinsert these certificates through this update. There will also be the inclusion of an administrative approval certificate for the subdivision applications that only require staff approval, such as lot line adjustments.

#### **ADU Definition**

The 2023 LUDC standards for accessory dwelling units (ADUs) speak to ADUs as an accessory use for single family dwellings and duplexes. However, the 2023 LUDC does not include duplexes in the definition of an ADU. To enhance clarity and align the definition with existing standards for ADUs, staff recommend adding duplex to the definition of ADU in the 2023 LUDC.

#### **PUBLIC COMMENT/OUTREACH**

Public hearings are being held both at the Planning & Zoning Commission meeting in April and the Town Council meeting in May to provide opportunities for the public to comment on these proposed corrections. Additionally, details about the project are publicly available on the Town's website.

#### **ATTACHMENTS**

None.