

## Meeting of the Planning Commission, January 6, 2015

Notes taken by Nancy Young

NOTE: Apology for the delay in posting these notes. There was an enormous amount of information provided during the meeting. It has taken more time than expected to summarize it in a meaningful way. I STRONGLY encourage everyone to read these notes to the end. Planning Commission members asked some very good questions that you will find at the end.

6:30 pm. All Commissioners were present (Caswell, Goff, Hannan, Sullivan, Crouse, Connell, Rothschild).

Home Town South: Request to vacate certain streets was approved, 7-0.

In 2006, Home Town South had submitted a proposal that created certain streets within the development that were approved. The plan, however, was never completed due to the economic downturn. This request vacates those streets in favor of the revised Home Town South development approved in 2014.

Staff noted that on January 20, the agenda consists of a public hearing on Solana Olde Town Arvada, to include:

- Rezoning
- Preliminary Development Plan (PDP)
- Height Exception

The formal meeting was then closed and a workshop opened.

### Land Development Code (LDC) Revisions

[Author NOTE: The following discussion affects your neighborhood - its character and what it might look like in 20 years. Please resist the temptation to allow the eyes to “glaze over”. Every effort has been made to summarize this information so it makes sense].

Last summer, City staff requested funding to review the LDC - Land Development Code. Stakeholder meetings were held, and the consultant conducted an intensive review. He read and compared all of Arvada’s planning documents (Comprehensive Plan, Transit Framework Plan, and Urban Renewal Plans, among others) to the Land Development Code (LDC).

The consultant, Todd Messenger of the Fairfield Woods law firm, made the following general points:

- Significant change in Arvada has created tensions and distrust, as new developments challenge community character.
- The Land Development Code (LDC) does not embody rules that use the market to deliver change that meets the community’s expectations. It can, and should, provide balance between maintaining community character while encouraging adaptations to current market realities and the evolving nature of our society.

- The existing LDC is inconsistent with the Arvada’s planning documents and does not make allowances for the evolution of society’s definition of “family” or Federal laws regarding reasonable accommodations for people with disabilities or alternative housing needs (like group homes for seniors).
- The current Land Development has inconsistent definitions, broken cross-references, inconsistent terms, and conflicting “requirements” sometimes listed as “guidelines” and sometimes listed as “mandatory”. The consultant stated that guidelines do not belong in the Code, which should only address what is required.

The bottom line: Staff Recommendations for Next Steps:

1. Create an “interim ordinance” that will last for 2-3 years until a full revision of the LDC can be effected. The initial schedule for implementing this interim ordinance includes final approval by the Planning Commission in early May, followed shortly thereafter by Council approval the same month. Public meetings and input would be gathered in early April.

This interim ordinance would be developed with intensive public input from about 10 participants in the stakeholder meetings held in the summer of 2014. This group would focus on consolidating the multiplicity and duplication of allowed land uses listed in “Table 5” - land uses by zoning district.

The interim ordinance would address the most glaring flaws in the current LDC, which are:

- Consolidate unused or duplicate land uses, but not address zoning districts.
- Redefine “family” to align this definition with current social values and Federal law.
- Revise sections related to “reasonable accommodations” for people with disabilities, senior and other group homes, and related housing requirements, to align the LDC with Federal requirements and encourage housing diversity.

2. A complete rewrite of the Land Development Code, which will require 2-3 years. The rewrite would address:

- many technical issues of definitions, inaccurate cross-references, inconsistent terms, and issues regarding “permission” vs. “required”.
- the approval process to align the impact of a proposed development with its impact on community character. For example, a business with a drive-thru would not be subject to the full public hearing process as it is now. Some developments, because of their community impact, could have an administrative process with significant public participation, while large-scale developments would be subject to the full public hearing process at both the Planning Commission and City Council.
- the excessive number of zoning districts.

A Request for Proposal (RFP) for this rewrite is expected to be issued in March, with selection of a vendor in May. It is anticipated that the Stakeholder Committee will continue to participate in this total rewrite and that a broad cross-section of citizens will also be involved.

READ ON! The following background information further explains the practical impact of the Land Development Code on YOUR neighborhood.

After the intensive review of the Land Development Code and related City documents, the consultant came to these conclusions:

1. Arvada's primary planning documents and the LDC are inconsistent.
2. Some planning documents refer to "zoning districts" that do not exist. Of the 30-40 zoning districts, some have uses that might never happen - like bungee jumping, while others have such limited uses that no developer would attempt to build anything there. This type of "micro-management" of land uses discourages economic investment and creates obstacles to businesses.
3. The LDC tends to address "design" of new structures first and community character second. These priorities should be reversed: community character should determine design.
4. The essence of the LDC - known as "Table 5" - does not relate to today's market or social realities. This complex table lists 30-40 zoning districts across the top, with the allowed and conditional land uses listed down the rows. The allowed land uses by zoning district are so complicated that a potential business/developer is discouraged from locating in Arvada. This micro-management also discourages innovation and creativity, since it is difficult to know if an innovative, creative business is allowed where the business wants to locate.

While citizens might think of "land uses" as just residential, industrial, agricultural, or retail, the Land Development Code (LDC) has many, many highly specific uses: a specialty grocery store is lumped in with any store that sells groceries (everything from King Soopers to Walmart), and is viewed differently from a shoe store. In reality, the neighborhood impact of a specialty grocer is similar to a small shoe store.

The difficulties are even greater for small businesses, who cannot easily find answers to their questions due to the myriad of requirements. Entrepreneurs often cannot afford an attorney to help them find the way through this maze. As a result, mainly large, national companies are willing to locate in Arvada; small businesses locate elsewhere because of the difficulties in understanding the requirements in Arvada.

4. The approval process for a project can be onerous. Currently, if a business wants a drive-thru, it must pay the cost of the full public hearing process. This cost is not just dollars, but also time. In contrast, some large-scale projects are approved by an administrative-only process with no public input.
5. Definitions are a problem. For example, society's definition of "family" is very different today than in the 1950's and directly affects "single-family" housing as an allowed land use. One example might be a religious organization that houses missionaries with local families. Is this an "allowed land use"?

Another example would be a same-sex couple with adopted children, where none of the household members are related by blood, but are united by a common bond - they behave as a family unit. The City of Arvada is leaving itself open to lawsuits by ignoring society's acceptance of non-traditional families.

6. The Land Development Code (LDC) is inconsistent with Federal law regarding accommodations for persons with disabilities. For example, construction of a ramp often violates Arvada's required setbacks for a property. Another example would be senior group homes. The LDC has onerous requirements as to how close such homes can be to each other. In general, the LDC appears to allow one such home per square mile. This spacing is onerous relative to Federal law.
7. The LDC regulates signs by zoning district, not purpose. For example, political signs and festival signs have similar content, purpose, and duration. Both are advertising for a specific event with a specific date. The LDC, however, treats these signs very differently. So Arvada has lots of political signs, but our festivals and events cannot be advertised.

NOTE: There is a US Supreme Court case regarding just this issue that the Court will hear on January 12th. In this case, a church is arguing that their sign is no different than a realtor's sign. The local jurisdiction has a sign code that is very similar to Arvada's sign code in the LDC.

8. Variances have been an ongoing issue for the Board of Adjustments. There are no clear standards regarding approval of variances. As a result, the Board members often "do a gut check" on whether the request is reasonable, and approve the request if it passes that "gut check".

The Planning Commission members had many questions, condensed as follows:

- Could there be "unintended consequences" if the overly specific, micro-management land uses are generalized?
- Response: If land uses are defined to reflect their actual impact on neighborhoods, such as treating specialty grocers and shoe stores as "retail", then no control is lost. It would also encourage creativity and innovation by encouraging small business.
- Might we be trying to solve problems that don't exist?
- Response: City staff has so far managed to address problems during the internal review process. Some issues, however, recur frequently, suggesting a need for these issues to be formally addressed.
- Will Arvada lose control over land development by changing its land use categories?
- Response: The land use categories are now so confusing that Arvada is "losing business" - businesses do not want to deal with the headaches of whether they are allowed to conduct a certain business in a certain area (zoning district) of Arvada. There are also safeguards that can be built into a revised Code to assure that Arvada does not "lose control" while still allowing innovation and creativity.
- Will changing the definition of "family" allow ad hoc boarding houses, such as a child inheriting the house and then renting every corner to 9-10 unrelated persons?

- Response: There are a wide variety of methods to control this “boarding house” issue while also acknowledging and providing for the changing definition of “family”.
- How would changes to the current LDC affect what Arvada would look like in 20 years?
- Response: Arvada has many neighborhoods with a distinctive character, such as the Olde Town Historic District. Stakeholders expressed a strong interest in maintaining the character of this district, and yet recent changes allowing administrative discretion in the Historic District has created tension and mistrust. A revised code can be written to balance the interests of the citizens and the need for economic development. For example, an administrative approval process can be designed to include and respond to public input.
- Would changing the Land Development Code (LDC) allow for more transit-oriented development?
- Response: A revised LDC can accommodate any need that the citizens and the City deem appropriate. The best Land Development Codes in the United States balance the needs of the citizens with the need for economic vitality.
- Does enforcement matter regarding signs?
- Response: Yes. The key issue is “free speech”. Most courts in the nation will rule in favor of free speech.