



**TOWN OF MILLIKEN
PLANNING COMMISSION
AGENDA MEMORANDUM**

To: Planning Commission		Meeting Date:	
From: Chair Woodcock		Wednesday,	
Via: Martha Perkins, Community Development Director		September 21,	
Kent Brown, Town Administrator		2016	
Agenda Item #	Action: X	Discussion:	Information:
Agenda Title: Request to meet with the Town Board for a Work Session on Land Use Issues that the Commission believes are a Priority including Updating the Land Use Code.			
Attachments: Power Point for Options Related to Updating the Land Use Code Staff Agenda Doc from Town Board Meeting on June 8, 2016 Town Board Minutes from June 8, 2016			

PURPOSE

Chair Woodcock asked staff to put this item on the meeting agenda, so the Planning & Zoning Commission can formally request a joint work session with the Town Board to discuss land use issues that the Commission believes are a priority including updating the Land Use Code.

BACKGROUND

The Commission would like to discuss with the Board in a joint work session priorities of the Commission that should be budgeted for within the next year, including an update to the Land Use Code.

Staff is researching possible options for an update to the Land Use Code, such as contracting this work out, using another Land Use Code as a base, and applying for a grant from the State's Department of Local Affairs.

BUDGET IMPLICATIONS

At this time, the impact on the Town's budget is not known.

POSSIBLE MOTION

The Planning Commission requests a Joint Work Session with the Commission and the Town Board to discuss land use issues that the Commission believes are a priority including updating the Land Use Code.



Milliken Land Use Code Proposed Revisions

Planning & Zoning Commission September 14, 2016

Staff Discussions with Town Board

- Town Staff presented the Milliken Town Board on June 8, 2016 with the reasons and options for updating the Land Use Code.
- Board agreed that Code needs updating.
- Town Staff asked the Board at a Work Session on September 14, 2016 on the need to budget for the Code Update and suggested using the Lakewood Code as a base to lower the cost of the Update.
- The Board responded the Code Update seems premature given their interest in having a vote on whether to remain a statutory town or become a home-ruled town.

Staff Discussions with Commission

- At the last several Commission meetings, including September 7, 2016, the Commission asked what staff presented the Board regarding an update to the Land Use Code.
- What follows is the PowerPoint Presentation from the Town Board meeting on June 8, 2016.

Options for Revision Pros and Cons

Use another community's code and modify it

- Starting over will enable Town Staff to remove all inconsistencies from the existing piece meal land use code.
- The Town Staff shall be able to amend or delete sections of another community's land use code to meet and serve the Town's needs.

Modify Milliken's existing code section by section

- Modifying the existing land use code section by section may be too time consuming for Town Staff, the Planning Commission, and the Town Board.
- It shall take a lot of Town Staff time to remove all inconsistencies from the existing Town land use code.

Hire an Outside Consultant to Update the Town's Land Use Code Pros and Cons

- The cost to have a consultant update the land use code could be cost prohibitive. The overall cost could exceed \$100,000.
- Staff time shall be reduced during the update process.
- An outside consultant may create a final product that isn't much better than the existing land use code because they do not know Milliken's past.
- **Additional Note: Martha urged to apply for a grant through DOLA that pays for a consultant, which is due September 17, 2016.**

What constitutes a good land use application process?

- The application process is clear and concise for the applicant .
- Town Staff is able to evaluate land use applications with more consistency.
- Staff allowed to approve more land use applications administratively.
- The public notification process is simplified, standardized, consistent across types of applications. For example, should certified mailings be required for all land use applications?

What is the Town trying to accomplish during the Land Use Code Revision Process?

- Reduce the time required for the legal notification process
- Allow for a minor variance process
- Create a temporary use permit process
- Assess whether application fees should be increased to adequately address staff time
- Better clarify landscape, transportation, and drainage plan requirements as it pertains to the size of the development
- Simplify community design principles and development standards for residential, commercial, and industrial development

How should Town Staff proceed?

- Start over using a new community code and amend it to suite Milliken's long-term zoning and planning needs
- Revise existing land use code section by section in order to remove inconsistencies and make the Town's land use code more flexible
- Hire a consultant to assist Town Staff with revising the code

What does the Commission desire?

- Is the Lakewood Code an option?
- Should we continue to revise existing land use code section by section in order to remove the major inconsistencies and make the Town's land use code more flexible and usable in the short-term?
- Apply for the DOLA grant, which would pay for a consultant to assist Town Staff with revising the Code?
- Put money in the budget with the intent that it will at least pay for legal review even if the Code is updated in-house?

A couple of examples from Lakewood's Code

- Staff thought a couple excerpts of text from Lakewood's Code might be interesting after the Commission has been spending quite a bit of time on some text amendments.

Table 17.2.1: Procedures Summary Table

Planning Applications	Application Processes		Review, Decision, and Appeal Authority			
	Pre-planning Review	Formal Application Review	Director	Board of Adjustment	Planning Commission	City Council
Initial Zoning and Rezoning	✓	✓	R		R	D
Special Use Permit	✓	✓	R		D	
Major Variance		✓	R	D		
Minor Variance		✓	D	A		
Major Waiver		✓	R		D	
Minor Waiver		✓	D		A	
Major Site Plan	✓	✓	D		A	
Comprehensive Sign Plan	✓	✓	D		A	
Zoning Lot	✓	✓	D		A	

✓ = Required Application R = Review D = Decision A = Appeal



17.5.5: Accessory Structures and Elements
17.5.5.1: Detached Structures

A detached accessory structure shall be located a minimum of 3 feet from the primary structure as measured from the closest adjacent walls and a minimum of two feet from the primary structure as measured from the closest adjacent eaves.

A detached accessory structure located on a single-family, duplex, or attached dwelling unit lot shall be subject to the following standards:

An accessory structure or combination of accessory structures shall not exceed more than 50 percent coverage of the rear, side, and non-primary front yard area of lot, and no more than 10 percent of the total lot area (See Figure 17.5.16).

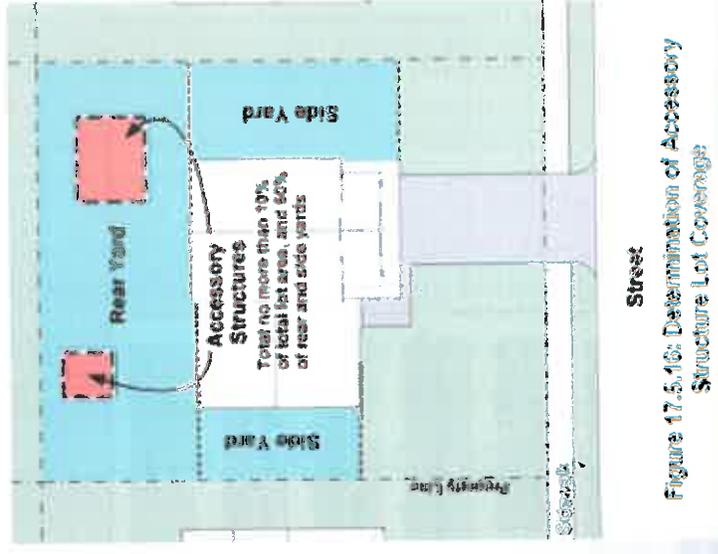


Figure 17.5.16: Determination of Accessory Structure Lot Coverage

17.6.6.4: Fence and Wall Materials

The following standards shall apply to all **residential** development:

Approved materials for fence construction include, but are not limited to, commercial quality wood, brick, masonry, metal, stone, wrought iron, manufactured vinyl or PVC fence material or any other material approved by the Director following the waiver criteria specified in Section 17.2.5 of this Zoning Ordinance.

Barbed wire shall be allowed to a height of 12 inches above a 72 inch tall fence on non- primary front, side and rear property lines in the R-1-43 zone district only.

Combination fences of lattice and other decorative materials may be used in conjunction; however, at no time shall the combination exceed the fence height limitation for that zone district.

All material used in wood fences shall be either naturally rot resistant (such as cedar), or pressure treated for rot resistance.

Prohibited fence materials shall include, but are not limited to, aluminum siding, vehicle parts, smooth face concrete masonry units/blocks, cloth or plastic tarps, scrap wood or any other material not customarily sold for fencing in the Denver Metropolitan area.

Plastic or temporary construction fence may not be used as a permanent fence material.

Approved materials for wall construction include, but are not limited to: commercial quality brick, decorative masonry units, or decorative concrete or any other material approved by the Director following the waiver criteria specified in Section 17.2.5 of this Zoning Ordinance.

Prohibited wall materials shall include, but are not limited to, landscape timbers, smooth face concrete masonry units/blocks, and other materials not customarily sold for retaining walls.

17-7.8.4: Fence and Wall Materials

The following standards shall apply to all **institutional, mixed-use, commercial, and light industrial additions or new construction**:

Approved materials for fence construction include, but are not limited to, commercial quality wood, brick, masonry, metal, stone, wrought iron, manufactured vinyl or PVC fence material or any other material approved by the Director following the waiver criteria specified in Section 17.2.5 of this Zoning Ordinance

Prohibited fence materials shall include, but are not limited to, aluminum siding, vehicles, smooth face concrete masonry units/blocks, cloth or plastic tarps, scrap wood or any other material not customarily sold for fencing in the Denver Metropolitan area.

Approved materials for wall construction include, but are not limited to, commercial quality brick, decorative masonry units, or decorative concrete or any other material approved by the Director following the waiver criteria specified in Section 17.2.5 of this Zoning Ordinance.

Prohibited wall materials shall include, but are not limited to, landscape timbers, smooth face concrete masonry units/blocks, and other materials not customarily sold for retaining walls in the Denver Metropolitan area.

Combination fences of lattice and other decorative materials may be used in conjunction; however, at no time shall the combination exceed the fence height limitation for that zone district.

All material used in wood fences shall be either naturally rot resistant (such as cedar), or pressure treated for rot resistance.

Plastic or temporary construction fence may not be used as a permanent fence material.

How does the Commission wish to proceed?

- Formally ask Board for a joint work session to discuss?
- Continue to do what we are doing –slowly updating code while staff applies for DOLA grant?
- Ask for a part-time attorney/contractor to update the Land Use Code?
- Other ideas?



**TOWN OF MILLIKEN
TOWN BOARD OF TRUSTEES
AGENDA MEMORANDUM**

To: Mayor Woodcock and Town Board of Trustees		Meeting Date: Wednesday, June 8, 2016	
From: Martha Perkins, Community Development Director			
Via: Kent Brown, Town Administrator			
Agenda Item #	Action:	Discussion: X	Information:
Agenda Title: Board Direction to Staff on How to Address Land Use Code Revisions			
Attachments:			

PURPOSE

At the last Town Board meeting on May 25, 2016, the Board requested a discussion on proposed revisions to the Land Use Code, known as Chapter 16 of the Town's Municipal Code, in its regular meeting on June 8, 2016.

BACKGROUND

On May 25, 2016 the Board asked staff to publically notice a discussion item for the Board meeting on June 8, 2016 on possible revisions needed to the Land Use Code. Generally, the Code conflicts with itself. It appears that many changes have been made over time to address specific immediate issues rather than taking a broader view of what the Town wants to encourage and how it will use the Code to implement the goals and objectives of the adopted Comprehensive Plan.

Both staff and applicants have a difficult time understanding what is required for specific land use applications. The application process is cumbersome and difficult to follow in the Code. The Code conflicts with itself due to previous fragmented Code revisions. Too many applications require Board approval and some of the administrative approvals take more time to obtain than just taking an application directly to the Planning Commission. Legal noticing periods need to be shortened. Certified mailings to surrounding property owners should not be required of all applications. The code ordinance defined fee structure does not match the Town's Fee Schedule, which was adopted separately by Resolution.

In addition, inconsistent regulations are sprinkled throughout the Code. It is very hard to decipher what regulations, design principals, and development standards apply to commercial, industrial, downtown and residential development. Some regulations apply to certain neighborhoods or zoning districts that do not apply to others without any legal basis. Some regulations or standards may be waived without any formal approval process or criteria by the Town. Other regulations are impossible to enforce such as the requirement to provide a 50 foot landscape

setback along state highways. These regulations are hurting the Town's ability to encourage downtown redevelopment and commercial development.

Thus, Town Staff would like some direction from the Board on primary areas within the Code that should be focused on and/or whether the Board should consider adopting another Code first as a base to build upon. Staff will research other possible options before the Wednesday's night meeting too.

BUDGET IMPLICATIONS

At this time, the impact on the Town's budget is not known. Staff is researching possible options, such as how much it would cost to contract this work out.

If the existing Code is revised, more concentrated staff time will be required to focus on the sections that are duplicated or in conflict with each other so as to not the add to the existing inconsistencies and conflicts.

If another "clean" municipal code is used as the base, less staff time should be required. More energy can be spent on revising the Code with the Commission and Board's focus on implementing the Comprehensive Plan goals and objectives, not buried in the minutiae.

RECOMMENDATION

Staff recommends using another municipality's land use code as a base and then revising it to implement Milliken's Comprehensive Plan's goals and objectives. The existing contradictions and duplicate sections throughout the Code make it extremely difficult to streamline the Code without a focused, concentrated effort by staff initially.

**TOWN OF MILLIKEN
BOARD OF TRUSTEES
MILLIKEN MEETING HOUSE, 1201 BROAD STREET**

MEETING MINUTES

Wednesday, June 8, 2016

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, June 8, 2016 at 7:00 P.M. Those present: Mayor Beau Woodcock, Mayor Pro Tem Linda Measner. Trustees: Elizabeth Austin, Katy Burack, LeRon Ehrlich, Nick Ehrlich and Ken Kidd. Also Present: Town Administrator Kent Brown, Town Clerk Cheryl Powell, Community Development Director Martha Perkins, and Town Attorney Linda Michow. Absent: Parks Director Josh Roseberry, Community Engagement Specialist/Planner Seth Hyberger, Accounting Technician Courtney Diller and Public Works Director Bill Landwehr.

Pledge of Allegiance

Mayor Woodcock called the meeting to order.

Roll Call

Trustee's: Austin, L. Ehrlich, Burack, N. Ehrlich and Kidd, Mayor Pro Tem Measner and Mayor Woodcock.

Agenda Approval

Staff had no changes to the Agenda. Trustee LeRon Ehrlich requested to move the first Executive Session and Action Item #3 to the end of the meeting.

Trustee LeRon Ehrlich motioned to approve the agenda with changes. Trustee Austin seconded.

All in favor, none opposed.

Citizen Comments

Mrs. Lois Ann Onorato, who resides at 340 Heidi Lane, Milliken, would like to invite the Town Board to the Historical Society Museum on Sunday from 1pm-4pm and advised the Board that the Museum will be open the 2nd and 4th Sundays in June, July and August. If they have items that they would like placed in the Historical Society Museum, the item would be appreciated and be placed

with their name as the donor.

Minutes of Previous Meeting

- May 25, 2016

Minutes approved as distributed.

Trustee Austin motioned to approve the minutes. Mayor Pro Tem Measner seconded.

All in favor, none opposed.

CONSENT AGENDA

There were not any items.

ACTION AGENDA

1. Appointment of New Planning Commissioner

To consider and chose one of the two applicants for the vacant Planning Commissioner position. Duane Flack and Andrew Hladik were previously interviewed during the Work Session for the vacant position.

Trustee Nick Ehrlich moved to appoint Andrew Hladik to the Planning Commission. Trustee Austin seconded.

Roll Call Vote: Trustee Austin – yes, Trustee L. Ehrlich – yes, Trustee Burack – yes, Trustee N. Ehrlich – yes, Mayor Pro Tem Measner – yes, Mayor Woodcock – yes, Trustee Kidd – yes. Motion carried.

Trustee Kidd asked if an alternate Commissioner appointment could be made to Duane Flack. Town Attorney Michow explained that an Ordinance could be drafted that allows this person to sit on the Commission but he could only vote if there is an absence on the Commission. Also, the Ordinance could allow this person to move into a Commissioner position if there is a resignation.

Mayor Pro Tem Measner moved to appointment Duane Flack as the alternate to the planning commission. Trustee Kidd seconded.

Roll Call Vote: Trustee Austin – yes, Trustee L. Ehrlich – yes, Trustee Burack – yes, Trustee N. Ehrlich – yes, Mayor Pro Tem Measner – yes, Mayor Woodcock – yes, Trustee Kidd – yes. Motion carried.

2. Reconsideration of Resolution 16-13, to Amend Section 3

Town Administrator Brown asked the Town Board to reconsider Section 3 in Resolution 16-13. Section 3 pertains to the effective date of May 25, 2016 for the fee for system development established in Resolution 16-13. He explained that he heard from and met with several builders in Town who understood the fee, but due to the timeliness of the effective date, this fee will impact homes already under contract. This was discussed during a work session and also at a previous meeting regarding when to start the date for this fee.

Town Attorney Michow explained that they could extend the date to July 1st or to exempt the lots that had already been under contract prior to the May 25, 2016 date.

Mr. John Smedley, who resides at 2455 E. School House Drive in Milliken, supports managing our own water supply. He supports additional fees for system development. Mr. Smedley explained to the Town Board that he is contracted to sell homes at a certain price and that resolution 16-13 could cause a financial difficulty for himself and perhaps the person who purchased the lot. He asked the Town Board to exempt certain lots which were purchased before the fee was established. Mr. Smedley explained that the title company is a third party who is not biased, could provide the documentation needed to show proof that these properties were purchased prior to the May 25th date. He is asking the Board to either reconsider the date or to provide an exemption.

Ms. Lisa Hall who is the manager of Windmill Homes explained to the Town Board they presell their houses first, plans with specs are sent to the engineer and then the town. It's about a five-week process from start to finish.

Trustee LeRon Ehrlich asked how many homes they had under contract. Ms. Hall did not have the exact figure on hand, but believes it is around 12 homes. Mayor Pro Tem Measner asked if these 12 homes were prior to May 25th. Lisa Hall indicated yes, but is not exact on the number of home, but it is around 12.

Trustee LeRon Ehrlich asked Ms. Hall if she could bring the same documents that John Smedley indicated that he could provide. She said she could.

John Smedley indicated that there is another builder in Town that also has approximately 3-4 contracts that this would effect.

Trustee Austin motioned to exempt the builders with contracts for houses signed prior to May 25, 2016 provided fully executed and verifiable documentation is provided. Trustee Burack seconded.

Roll Call Vote: Trustee Austin – yes, Trustee L. Ehrlich – yes, Trustee Burack – yes, Trustee N. Ehrlich – yes, Mayor Pro Tem Measner – yes, Mayor Woodcock

– yes, Trustee Kidd – yes. Motion carried.

DISCUSSION AGENDA

1. Policy Direction on the Use of Encroachment Licenses

Community Development Director Martha Perkins asked the Town Board whether the Town should engage in the use of encroachment licenses. She indicated that she has had several requests which is why this is being brought to the Board. The homeowners realize that if necessary the building, etc. could be torn down if there is a problem.

Town Attorney Linda Michow explained that these types of issues occur in every community. There are a lot of circumstances that private improvements are placed in the public right-of-way. How does the Board want to recognize this issue? Does the Board wish these encroachments to be taken down or does the Board want to allow the encroachment with documentation? This basically acknowledges that a private improvement exists.

Trustee LeRon Ehrlich asked about adverse possession. Michow explained that a private individual can't adversely possess against a public entity.

Community Development Director Perkins explained that most of these issues are brought to the Town's attention by the Title Company.

Town Administrator Brown indicated that with the license agreement if a structure needs to be moved or taken down, it can be done at the expense of the homeowner. Trustee Nick Ehrlich asked that even without the license agreement can't the Town still charge the homeowner for the relocation or demolition. Attorney Michow explained that this documentation provides whose responsibility this private improvement is and therefore protects the Town from any liability.

Mayor Pro Tem Measner explained that it appears that resolution 15-15 already addresses this issue. She does not think a license is necessary. She indicated that the title company should note that there is an encroachment on this property. Trustee LeRon Ehrlich is in agreement with the Mayor Pro Tem.

Trustee Kidd asked if in a town the size of Milliken will this situation occur very often. Discussion from the Board and the Attorney indicated that these encroachments most likely exist in the older section of Town or by fences constructed without the initial fence permit being submitted to the Town.

Town Administrator Brown indicated with the License Agreement it makes the encroachment more specific.

Trustee Kidd indicated that he is not opposed to the License Agreement and indicated that all new improvements need to come to the Town.

Andrew Hladik 200 S. Olive Ave., Milliken, wanted to know the definition of pre-existing. These types of occurrences happen when someone does not pull a permit to build a shed. Would it be arbitrary and capricious manner? Town attorney Michow explained that these would not be quasi-judicial which is where the arbitrary and capricious manner would apply.

Trustee LeRon Ehrlich asked the Attorney if the town acknowledges an encroachment and provides a license what happens if someone is injured. How would the town be protected if they have licensed an encroachment to occur?

Mayor Pro Tem Measner was concerned that the licenses may cause a debate over fairness. If one property owner is allowed and another one isn't, there could be an issue.

Trustee Kidd asked Director Perkins how often this issue has come up. Perkins replied quite a few times.

Trustee Kidd asked if there is a downside to this license agreement. Attorney Michow explained that she does not see one. She explained it is not only for structure types of improvements, but indicated that it could be used if a developer would like to improve a Town median with landscaping and lights, etc. This license indicates that the Town is in agreement, but the maintenance, etc. would fall on the developer.

Discussion from the Town Board is to leave the policy regarding encroachments as is and not implement licenses.

2. Board Direction to Staff on How to Address Land Use Code Revisions

Community Development Director Perkins indicated that at the last Town Board meeting on May 25, 2016, the Board requested a discussion on proposed revisions to the Land Use Code, known as Chapter 16 of the Town's Municipal Code. Perkins addressed the Town Board indicating that the current Code has many discrepancies. A Power Point presentation was given showing the various ways the Town can address the Land Use Code and the revisions. Some of the options would be to hire an outside consultant that would probably use another municipality's code as a template. This option could cost approximately \$100,000, and staff time would be used to oversee the process. Another suggestion was to use another municipality's Code which could be modified for Milliken or that Milliken's existing Code could be modified section by section by Town Staff where the discrepancies occur.

Discussion by the Town Board was whether another municipalities Code should be used as a basis or if the current Code should be revised where the inconsistencies occur. The proposed option of hiring an outside consultant to revise or rewrite the Code was an expensive option and the Board suggested that this could be reviewed during the budget sessions for 2017.

Executive Session

Mayor Pro Tem Measner motioned to go into Executive Session under C.R.S. 24-6-402(4)(f). Trustee LeRon Ehrlich seconded.

Roll Call Vote: Trustee Austin – yes, Trustee L. Ehrlich – yes, Trustee Burack – yes, Trustee N. Ehrlich – yes, Mayor Pro Tem Measner – yes, Mayor Woodcock – yes, Trustee Kidd – yes. Motion carried.

A ten-minute recess was called.

Resume Regular Meeting with Action Item 3

The regular meeting resumed at: 9:16 P.M.

3. Consideration and Approval of the Ratification of the Town Administrators Contract

Town Attorney Linda Michow asked the Town Board to consider for approval pursuant to C.R.S. Section 31-4-304, the appointment of the Town Administrator. This appointment was postponed by the Town Board of Trustees at their meeting on May 25, 2016 due to the summary of the evaluation of the Town Administrator not being complete at that date.

Trustee LeRon Ehrlich motioned to approve the ratification of the Town Administrators Contract with a 3% cost of living increase retroactive to January 1, 2016. Trustee Austin seconded.

Discussion: None.

Roll Call Vote: Trustee Austin – yes, Trustee L. Ehrlich – yes, Trustee Burack – yes, Trustee N. Ehrlich – yes, Mayor Pro Tem Measner – yes, Mayor Woodcock – yes, Trustee Kidd – yes. Motion carried.

Executive Session

Mayor Pro Tem Measner moved to go into Executive Session C.R.S. 24-6-402(4)(a), for the purchase, acquisition, lease, transfer or sale of any real, personal, or other property interest. Trustee Kidd seconded.

Roll Call Vote: Trustee Austin – yes, Trustee L. Ehrlich – yes, Trustee Burack – yes, Trustee N. Ehrlich – yes, Mayor Pro Tem Measner – yes, Mayor Woodcock – yes, Trustee Kidd – yes. Motion carried.

The time is: 9:23 P.M.

Resume Regular Meeting

The regular meeting resumed at: 9:40 P.M.

INFORMATIONAL AGENDA

There were not any items.

Summary of Meeting (Review of Action Items, Staff Assignments & Schedule)

Adjournment

Trustee Ehrlich moved to adjourn. Trustee Austin seconded.

All in favor, none opposed.

Hearing no further business, the Mayor adjourned the meeting at: 9:41 P.M.

Prepared by:

Approved by:

Cheryl L. Powell, Town Clerk

Beau Woodcock, Mayor

