



Land Use

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Allenspark Regional Comprehensive Plan – Phase 2

April 26, 2012 – 6:30-8:00 pm

Meeting #4

Topics: Working Agreements, Business Zoning

Agenda

- Business Zoning, continued from 4/12
- Wrap-up and next steps

BUSINESS ZONING – DISCUSSION

This is a conceptual summary. This is not a final plan. The purpose is to find areas of agreement and disagreement so that we can focus on ways to address the points of disagreement. It captures issues that were raised in the Business Zoning proposal and ways staff could support achieving these goals. Tammy Ackerman, Chair of the committee that worked on the Business Zoning Proposal, has responded to the staff summary as noted in *red italics*. This should not be accepted as the final product from staff or the community. It's a starting off point for discussion (see step #3 above).

Issue: Businesses along Business Route 7

747 Community Plan proposal: All existing businesses along Business Route 7 from the Allenspark townsite to Ferncliff should be zoned Business.

That is partially correct. The proposal also identifies five additional properties within the townsite that had been historically zoned Business but were down zoned in 1984. The goal is to reinstate Business zoning to those properties identified on the map. This goal is consistent with the 747 comprehensive plan that reads:

- *“Re-establish the Business Zone District along Business Route 7 to bring existing historically operated businesses in the Allenspark Townsite into regulatory conformity and to encourage most new business development to take place within the townsite of Allenspark”.*

Desired outcome: The 747 Community Plan desires all existing businesses to be conforming.

Boulder County staff response: Agree that it makes sense to rezone businesses along Business Route 7 from the Allenspark townsite to Ferncliff and with some further guidelines and specific allowance to ensure the community character is maintained. A new business zone could allow the range of uses (businesses currently allowed in B) or it could be more finely tailored to include those businesses and combination of businesses desired by the community. The new zone should have setbacks, height limits and size requirements more appropriate for a small community.

Discussion: Staff proposes a new zone for a three reasons. The townsite has a public water system and could have a sewer system as well. First, the front setbacks for the current B zone are too constraining given the existing conditions and parcel sizes in the townsite. Second, the B zone allows structures to be up to 50 feet tall. Based on the existing development pattern in the townsite and the small parcel sizes that exist, this maximum height is not in character

with the townsite. An appropriate height would be more in line with the Forestry zone district which allows up to 35 feet. Third, the community plan seeks to encourage small businesses that serve the residents and visitors to the northwest corner of Boulder County. This could be done by limiting uses (for example, the community expressed a disapproval of medical marijuana centers which are currently allowed in B) and/or relating the maximum building size to the parcel size or establishing a maximum building size. There is a concern from staff that perhaps parcels could be combined to enable larger businesses that serve the highway passersby rather than the residents and visitors who stay in the area.

Another reason to support a new zone district is that it could allow multiple principal uses. This would allow, for example, a business on the first floor of a structure with a residence on the second floor. A new structure such as this would require a review process such as site plan review (most likely) to make sure the structure itself meets the requirements for new development. But site plan review is a shorter (and administrative) process as opposed to Special Use Review. Multiple principal uses is currently allowed in the B zone but Special Use review is required – even if the difference uses are within the same structure.

The intent of the proposal for the Highway 7 Business district is to rezone the properties identified on the map to the currently existing Business zone that benefits other businesses within the Townsite. If the county proposes to rezone all of the businesses within the Allenspark townsite to a newly defined business zone district, then that will require dialogue with the existing business owners that would lose the current Business zoning as it exists in today's regulation. The Historic Business District that the 747 Community Project has proposed (for those historic businesses outside the townsite) to the County incorporates those historic uses as well as the types of businesses the community has expressed as acceptable. If the county chooses to open dialogue in regard to creating a new business district the aforementioned document provides a place to start. Such dialogue between the County and the community should include the following:

- Identification of those items within the current Business zone that are a concern to the county and why they are of concern.*
- Discussion about the five properties proposed for Business zoning that currently are not being used for business purposes. These discussions must include the potentially affected property owners.*
- The pros and cons to the alternative solution, that being to retain the current Business zoning for the properties that are currently zoned Business.*
- Clarification of what defines multiple principal use as compared to incidental use (a term used by Dale Case in regard to Meeker Park having a grocery store as well as lodging facilities).*

Issue: Existing Businesses within the Allenspark region 747 Community Plan proposal: Rezone seven existing lodging and retail business to a new Historic Business zone district.

Desired outcome: The 747 Community Plan desires all existing businesses to be conforming.

Boulder County staff response: Keep the existing Forestry zone district for these seven properties.

Discussion: Staff does not support rezoning all existing business in the Allenspark fire district to a business zone. These businesses are diverse in the locations, parcel sizes, intensity of development, and impact on the land and natural resources and staff believes expansion of any of these uses deserves a thorough public review. Changes have been made to the Land Use Code in recent years which allow more flexibility to the Resort Lodge, Conference Center, and Guest Ranch as well as the Use of Community Significance classifications. For example, more uses now qualify to apply for the Use of Community Significance designation

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and the process was changed from Special Use review to Limited Impact Special Review which is a shorter process. A use classification for Camps was also recently added which provides places such as Camp Tahosa and Meadow Mountain Ranch the ability to become conforming should they seek an expansion. One of the uses in the 747 proposal for Historic Business and located on the map is Lane Guest Ranch. The owner has begun the process with Land Use but has not yet made a formal application.

It is the communities desire to have all existing businesses brought into conformity through this process. Thus eliminating the concern of being thrown into an "illegal" non-conforming status due to making improvements to their property.

- *Lloyd Lane of Lane Guest Ranch indicated he was approached by Hannah Hippley and told he needed to begin the Special Use Process in the Fall of 2011. Hannah clarified that Lloyd Lane is required to go through the 'Use of Community Significance' process due to concern that improvements were made to the property without permits, consequently throwing Lane Guest Ranch into 'illegal non-conforming status'. This example of non-conforming status is an argument for bringing all businesses into conformity using the townsite planning initiative process as the conduit.*

Nonconforming uses are allowed to continue operations and can seek building permits for modifications that do not increase the intensity of the use but rather improve the safety of existing structures.

See non-conforming language. The above paragraph is an oversimplification of what non-conforming means to a property owner.

Staff's concerns include that there is greater likelihood of those historic businesses disappearing if they had a business zone, particularly those with frontages on Highway 7.

There is a much greater likelihood that the historic businesses will disappear as the current owners pass on and leave behind structures that by non-conforming definition do not allow for modernization such as esthetic upgrades requiring permits, e.g., new kitchen appliances requiring plumbing changes, larger closets, updating bathrooms, etc. By not bringing these properties into conformity through this process, these properties lose any competitive edge that might be gained by modernizing their facilities. Stone Mountain Lodge outside of Lyons is a case in point. We heard them testify at the Use of Community Significance hearing that they aren't even allowed to remove the dated paneling inside their units and hang drywall because it would require a permit.

Dayton who owns Eagle Plumes indicated that he was required to remove a deck he built being told that since he was non-conforming it had to be removed. (at that time the code required only decks being constructed more than 30 inches from the ground, to be permitted)

Another concern is that conformance with the zoning map does not necessarily mean compliance with other important health and safety regulations such as safe drinking water, healthy disposal of wastewater, safe structures, and safe access to the highway, and all the other criteria that are reviewed during the Land Use planning review process. Through adoption of the above- mentioned Code amendments, the County has made clear the importance of these long established uses. We have also scaled the process and requirements to recognize these uses and allow them to extend their viability by making changes while maintaining public safety, protecting the environment, and embodying the character of the Allenspark area.

For the properties already served by a Special Use Permit the reasoning behind establishing an historic business district for those properties is as follows:

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- *A Special Use permit has a 5 year Sunset provision that puts at risk the historical preservation of the existing lodges as evidenced by the Lazy H (Alpine Mountain Ranch) now known as Rocky Mountain Pathways. That property was purchased and put into operation a mere one week from the Sunset provision kicking in which would have triggered the loss of the Special Use Permit. Boulder County at first said that the Sunset date had already passed. We were able to provide documentation that it in fact had not. The sunset provision gives Buyers extreme leverage when considering a purchase. In addition, while a Special Use Permit is a step up from being non-conforming the parameters are so confining that it often times results in a much longer market as stated above, again putting at risk the historic businesses sustainability.*

Discussion should include the following:

- **One Solution:** *A baseline is established that includes current and historical uses, current capacity, square footage, water source, sanitation, peak traffic count, parking spaces etc, for each of the identified properties. When a use is proposed outside of the established baseline a process is triggered that includes a public review process.*
- *Additionally for the larger parcels; a specific building envelope could be identified that includes all existing structures. If there is a future proposal intensifying use through development of additional structures a public review process would be triggered.*

Issue: How rezoning is initiated

747 Community Plan proposal: Boulder County should “establish or reinstate” business rezoning to existing businesses.

Desired outcome: The community plan suggests Boulder County initiate the rezoning so that the process does not burden the property owner with submittal requirements or fees typically associated with a rezoning request.

Boulder County staff response: Boulder County can initiate rezoning of existing businesses along Business Route 7.

Discussion: Staff supports rezoning the established businesses in the Allenspark townsite. This would entail designating a Land Use staff person to process the rezoning application, gaining the consent of property owners, and making sure rezoning would not lead to conflicts with other regulations (such as Public Health, fire district, or other established requirements). The rezoning request would be referred to property owners within 1,500 feet of each parcel proposed for rezoning as well as the typical group of referral agencies. Rezoning properties requires public hearings before the Planning Commission and approval from the Board of County Commissioners. Other property owners could apply for this new zone through the regular land use rezoning review process.

“Other property owners could apply for this new zone through the regular land use rezoning review process.” Precisely what these recommendations are designed to avoid. Simply put, bringing these properties into conformity does not remove the responsibility of the property owner to pull permits when expanding which would trigger the other health and safety referrals, hence negating the argument. The community has over 80 % consensus that these particular businesses have stood the test of time and should be granted appropriate zoning without having to navigate the waters of the Special Use Process or rezoning. For some unknown reason Boulder County chose to grant business zoning to Sunshine Mountain Inn and The Raymond Store. Both properties are well outside the townsite with varying lot sizes and similar historical uses as the properties these proposals seek to establish a Historic Business zone district.

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Allenspark Historic Business District

(This district is a new zone district for the businesses which lie outside the Business district but within the boundaries of the Allenspark Regional Comprehensive Plan (ARCP) geographic boundaries. It would replace the current Forestry Zone District)

A. Purpose: A zone which acknowledges that the recreation and tourism history of the Allenspark area contributed greatly to the establishment of the community and which seeks to recognize those existing historical uses in order to preserve and promote the remaining recreation and tourism operations that exist in the community and which continue to have a positive social and economic influences in the community and help to define the community character.

B. Principal Uses Permitted

1. Agri-business Uses
 - a) None Permitted
2. Agricultural Uses
 - a) Open Agricultural Uses
3. Commercial/Business Service Uses
 - a) None Permitted
4. Community Uses
 - a) Adaptive Reuse of a Historic Landmark (I)
 - b) Camp
 - c) Reception Halls and Community Meeting Facilities
 - d) Educational Facility
 - e) Church
 - f) Use of Community Significance
5. Forestry Uses
 - a) Forestry
6. Industrial Uses

- a) None Permitted

7. Lodging Uses

- a) Bed and Breakfast
- b) Campground
- c) Overnight Lodging
- d) Resort Lodge, Conference Center, or Guest Ranch
- e) Short-Term Dwelling Rentals

8. Mining Uses

- a) Oil and Gas Drilling or Production, on subdivided land
- b) Oil and Gas Drilling or Production, on unsubdivided land

9. Office Uses

- a) Professional Offices

10. Recreation Uses

- a) Livery or Horse Rental Operation
- b) Outdoor Recreation, for day use
- c) Park or Playfield, for day use

11. Residential Uses

- a) Group Care or Foster Home (S)
- b) Single Family Dwelling

- i. Maximum gross residential density one dwelling per building lot

12. Retail and Personal Service Uses

- a) Eating or Drinking Place, without drive through
- b) Retail or Personal Service Facility

13. Transportation Uses

- a) Park and Ride Facility (S)

14. Utility and Public Service Uses

- a) Community Cistern (I)
- b) Fire Barn (I)
- c) Fire Station (I)
- d) Public or Quasi Public Facility other than listed (S)
- e) Public Safety Telecommunications Facility (I)
- f) Sewage or Water Transmission Lines (R/L)
- g) Telecommunications Facility, utilizing an existing structure and meeting the height requirement of the zone district.
- h) Telecommunication Facility requiring a new Structure or accessory structure exceeding the height limitation of the district in which the facility is located, or exceeding the accessory building size limitations (S)
- i) Small Solar Energy System (S)
- j) Small Wind Powered Energy System
- k) Utility Service Facility
- l) Water Reservoir (S/R/L)
- m) Water tank or treatment facility (S/R/L)
- n) Wind Powered Electric Generator (I)

15. Warehouse Uses

- a) None Permitted

C. Accessory Uses Permitted

1. Temporary Accessory Community Meeting Facility
2. Accessory Dwelling (I)
3. Accessory Horse Keeping
4. Accessory Outside Storage

5. Accessory Solar Energy System
6. Accessory Structure
7. Grading of more than 500 Cubic Yards (I)
8. Home Events
9. Home Occupation
10. Household Pets
11. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
12. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
13. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted

1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering (A)
4. Temporary Dwelling Unit (A)
5. Temporary Farm Stand
6. Temporary Weather Device Tower
7. Temporary Special Use (S)

E. Lot, Building, and Structure Requirements

1. Minimum lot size
 - a. As existing at the time of rezoning to this zone district
2. Minimum setbacks
 - a. Front yard...15feet
 - b. Side yard...7 feet
 - c. Rear Yard...15 feet

3. Maximum building height

- a. For new construction and additions 30 feet; structures existing at the time of adoption of this code shall be permitted at their existing height.

F. Additional Requirements

1. Multiple Principal Uses – shall be allowed unless the uses otherwise trigger Special Review.

2. Special Review is required:

- a) When the use of motorized recreational activities or the use of firearms is proposed.
- b) When redevelopment of a parcel, resulting in the deconstruction of more than 20% of the existing structures, is proposed.
- c) When a use or combination of uses would generate at least 20% more traffic to and from the facility (traffic volumes measured as average daily trips as defined by the Institute of Transportation Engineers) than the established baseline or the previously permitted traffic levels. *Note: 20% increase is what CDOT uses for a trigger to require a new access permit.*
- d) When a use or combination of uses would result in the addition of at least 25% more user capacity to the facility than the established baseline or the previously permitted level of use.
- e) When a use or combination of uses would result in the addition of at least 25% more total floor area to the facility than the established baseline or the previously permitted square footage. *Note: unless the square footage increase is agricultural in nature, e.g., hay storage, barn, riding arena, etc.*

3. Limited Impact Special Review is required:

- a) When a use or combination of uses would generate at least 10% more traffic to the facility (traffic volumes measured as average daily trips as defined by the Institute of Transportation Engineers) than the established baseline or the previously permitted traffic levels.
- b) When a use or combination of uses would result in the addition of at least 10% more user capacity to the facility than the established baseline or the previously permitted level of use.
- c) When a use or combination of uses would result in the addition of at least 10% more total floor area to the facility than the established baseline or the previously permitted square footage.

4-109 Business (B) District

- A. Purpose: Areas for the development of restricted retail and business uses which have minimal exterior impact on surrounding properties.
- B. Principal Uses Permitted
 - 1. Agri-business Uses (see 4-501)
 - a. Keeping of Nondomestic Animals (S)
 - 2. Agricultural Uses (see 4-502)
 - a. Farm Stand
 - 3. Commercial/Business Service Uses (see 4-503)
 - a. Printing and/or Publishing Establishment
 - b. Vehicle Sales/Rental Lot (S)
 - 4. Community Uses (see 4-504)
 - a. Adaptive Reuse of a Historic Landmark (I)
 - b. Church
 - c. Educational Facility (S)
 - d. Membership Club
 - e. Reception Halls and Community Meeting Facilities
 - f. Use of Community Significance (I)
 - 5. Forestry Uses (see 4-505)
None Permitted
 - 6. Industrial Uses (see 4-506)
None Permitted
 - 7. Lodging Uses (see 4-507)
 - a. Overnight Lodging
 - b. Resort Lodge, Conference Center, or Guest Ranch
 - c. Short-Term Dwelling Rental (I)
 - 8. Mining Uses (see 4-508)
 - a. Limited Impact Open Mining (I)
 - b. Oil and Gas Drilling or Production, on subdivided land
 - c. Oil and Gas Drilling or Production, on unsubdivided land
 - 9. Office Uses (see 4-509)
 - a. Professional Office
 - 10. Recreation Uses (see 4-510)
 - a. Indoor Recreation
 - b. Outdoor Recreation, for day use
 - c. Outdoor Recreation, for night use (S)
 - d. Park and/or Playfield, for day use
 - e. Park and/or Playfield, for night use (S)
 - 11. Residential Uses (see 4-511)
 - a. Boarding House
 - b. Group Care or Foster Home (S)
 - c. Single Family Dwelling

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12. Retail and Personal Service Uses (see 4-512)
 - a. Bank
 - b. Convenience Store
 - c. Day Care Center
 - d. Emergency Care Facility
 - e. Eating or Drinking Place, with drive through (S)
 - f. Eating or Drinking Place, without drive through
 - g. Indoor Theater
 - h. Medical Marijuana Center
 - i. Mortuary
 - j. Recycling Collection Center, small (I)
 - k. Retail or Personal Service Facility
 - l. Vehicle Service Center
 - m. Veterinary Clinic, with outdoor holding facilities
 - n. Veterinary Clinic, without outdoor holding facilities
 13. Transportation Uses (see 4-513)
 - a. Airport (S)
 - b. Heliport (S)
 - c. Helistop (S)
 - d. Park and Ride Facility (S)
 14. Utility and Public Service Uses (see 4-514)
 - a. Central Office Building of a Telecommunication Company (R)
 - b. Community Cistern (I)
 - c. Fire Barn (I)
 - d. Fire Station (S)
 - e. Major Facility of a Public Utility (S) (R) (L)
 - f. Public or Quasi-public Facility other than Listed (S)
 - g. Public Safety Telecommunication Facility (I)
 - h. Sewage or Water Transmission Line (R) (L)
 - i. Sewage Treatment Facility (S) (R) (L)
 - j. Small Solar Energy System or Solar Garden (SPR) (I)
 - k. Small Wind-Powered Energy System (see 4-514.M.)
 - l. Telecommunications Facility, existing structure meeting height requirements
 - m. Telecommunications Facility, new structure or not meeting height requirements (S)
 - n. Utility Service Facility
 - o. Water Reservoir (S) (R) (L)
 - p. Water Tank or Treatment Facility (S) (R) (L)
 15. Warehouse Uses (see 4-515)
 - None Permitted

- C. Accessory Uses Permitted (see 4-516)
 - 1. Temporary Accessory Community Meeting Facility
 - 2. Accessory Dwelling (I)
 - 3. Accessory Outside Storage
 - 4. Accessory Solar Energy System
 - 5. Accessory Structure
 - 6. Grading of more than 500 Cubic Yards (I)
 - 7. Home Events
 - 8. Home Occupation
 - 9. Household Pets
 - 10. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
 - 11. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
 - 12. Small Wind-Powered Energy System, Roof-Mounted
- D. Temporary Uses Permitted (see 4-517)
 - 1. Emergency Noncommercial Telecommunication Site (A)
 - 2. Garage Sales or Occasional Sales
 - 3. Group Gathering (A)
 - 4. Temporary Batch Plant (A)
 - 5. Temporary Construction or Sales Office (A)
 - 6. Temporary Dwelling Unit (A)
 - 7. Temporary Farm Stand
 - 8. Temporary Fireworks Stand (I)
 - 9. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
 - 10. Temporary Weather Device Tower
- E. Lot, Building, and Structure Requirements
 - 1. Minimum lot size
 - a. On subdivided land where the principal structure is connected to public water and sewer facilities...no minimum requirement
 - b. On other land...35 acres
 - 2. Minimum setbacks
 - a. Front yard...60 feet from the centerline of the ROW
 - b. Side yard...Zero or 12 feet
 - c. Rear Yard...20 feet
 - d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.
 - e. Supplementary requirements may apply, refer to Article 7-1400.
 - 3. Maximum building height...50 feet

F. Additional Requirements

1. Maximum gross residential density
 - a. In a community service area on subdivided land where the dwellings are connected to public water and sewer facilities...Nine dwelling units per acre
 - b. On other land...One dwelling unit per 35 acres
2. Special review is required for any use which:
 - a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;
 - b. has an occupant load greater than or equal to 100 persons per lot;
 - c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot; or
 - d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area).
3. Limited Impact Special Review is required for any use which is:
 - a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;
 - b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(l).
4. An exemption plat is required for any single family residential development on vacant land proposed for subdivided land with a final plat approved prior to March 22, 1978.
5. No parcel shall be used for more than one principal use, except for allowed agricultural uses, forestry uses, mining uses, or any combination thereof unless approved through special review, or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.
6. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.